

The Banking Act

of 29 August 1997

(Journal of Laws of 2015, item 128)

(consolidated version)

CHAPTER 1

GENERAL PROVISIONS

Article 1

The present Act lays down the principles of carrying out banking activity, establishing and organising banks, including branches and representative offices of foreign banks, and branches of credit institutions, and also the principles of the exercise of banking supervision, reorganisation, liquidation and bankruptcy proceedings of banks.

Article 2

A bank shall constitute a legal person, established pursuant to the provisions of statute, operating on the basis of authorisations to perform banking operations that expose to risk

funds which have been entrusted to the bank and which are in any way repayable.

Article 3

The terms "*bank*" and "*kasa*" [bank, loan society, savings and credit-union – tr.] may be used solely in the names of banks as defined in the Art. 2, and to describe the activities of or advertise such banks, with the proviso that:

- 1) this shall not apply to organisational units employing the terms "*bank*" or "*kasa*" where the activity thereof explicitly indicates that these entities are not engaged in banking operations,
- 2) the term "*kasa*" may also be used in the name of organisational units, and to describe or advertise the activities thereof, where such units, pursuant to a separate act, take savings deposits from natural persons affiliated with the given entity and extend cash advances to them.

Article 4

1. The terms employed in the present Act shall be construed as follows:

- 1) domestic bank — a bank having its registered office in the Republic of Poland;

- 2) foreign bank — a bank having its registered office outside the Republic of Poland, in a country that is not a member of the European Union;
- 3) international financial institution — a financial institution in which the majority of equity capital is held by member states of the Organisation for Economic Co-operation and Development or by the central banks of such states;
- 4) payment card — a payment card as defined in the Act of 19 August 2011 on Payment Services (Journal of Laws of 2014, item 873 and 1916);
- 5) electronic money — electronic money as defined in the Act of 19 August 2011 on Payment Services;
- 6) (repealed);
- 7) financial institution — an undertaking other than a bank or credit institution, whose basic activity generating most of its income consists in business activity involving:
 - a) acquiring and disposing equities and shares,
 - b) extending internally funded loans,
 - c) making assets available under leasing contracts,
 - d) providing services relating to the acquisition and disposal of claims,
 - e) providing payment services and the issue of the electronic money under the provisions of the Act of 19 August 2011 on Payment Services,
 - f) issuing and administering payment instruments within the scope not regulated in the Act of 19 August 2011 on Payment Services,
 - g) extending guarantees or sureties, or entering into other commitments not reported in the balance sheet,
 - h) trading, for its own account or that of another natural or legal person, or an organisational unit without legal personality yet having legal capacity, in:
 - financial forward transactions,
 - money market instruments,
 - securities,
 - i) participating in issues of securities or providing services related to such issues,
 - j) providing asset management services,
 - k) providing financial advice services, including investment advice,
 - l) providing brokerage services on the money market;
- 8) parent undertaking:
 - a) a parent undertaking as defined in Art. 4, para. 14, of the Act of 29 July 2005 on Public Offering and the Conditions for Introducing Financial Instruments to the Organised Trading System and on Public Companies (Journal of Laws of 2013, item 1382), or
 - b) an undertaking which, in the opinion of the Polish Financial Supervision Authority, may in some other way exercise significant influence over another undertaking;
- 9) subsidiary undertaking — an undertaking which has another undertaking as its parent, with all subsidiaries of such a subsidiary undertaking also being considered subsidiaries of the original parent undertaking;

- 10) financial holding company — a group of undertakings where the original parent undertaking is a financial institution which is not a non-regulated parent undertaking as defined in Art. 3, para. 5 of the Act of 15 April 2005 on Supplementary Supervision of Credit Institutions, Insurance Undertakings, Reinsurance Undertakings and Investment Firms in a Financial Conglomerate (Journal of Laws of 2014, item 1406), hereinafter referred to as “Act on Supplementary Supervision”; the financial conglomerate is composed exclusively or mainly of banks, credit institutions or financial institutions, with at least one subsidiary being a domestic bank, foreign bank or credit institution;
- 11) mixed-activity holding company — a group of undertakings where the original parent undertaking is an undertaking other than a bank, credit institution or financial institution and at least one subsidiary is a domestic bank, foreign bank or credit institution;
- 11a) foreign banking group (holding company) — a group of undertakings where the original parent undertaking is a foreign bank or credit institution and at least one subsidiary is a domestic bank, foreign bank, credit institution or financial institution;
- 11b) domestic banking group (holding company) — a group of undertakings:
 - a) where the original parent undertaking is a domestic bank or
 - b) which is composed of a domestic bank and undertakings having close links to that bank;
- 11c) hybrid holding company — a group of undertakings where the original parent undertaking is a financial institution which is not a non-regulated parent undertaking as defined in Art. 3, para. 5 of the Act on Supplementary Supervision and the group is composed mainly of undertakings other than domestic banks, foreign banks, credit institutions or financial institutions, with at least one subsidiary being a domestic bank;
- 12) ancillary banking services undertaking — an undertaking, the principal activity of which is ancillary to the principal activity of one or more banks and in particular consists in managing its own property or that entrusted to it, or providing data processing services;
- 13) competent supervisory authorities — the authorities empowered by the regulations in force to supervise undertakings operating on the financial market;
- 14) significant influence — the capacity to participate in making decisions that direct the financial and operating policy of another undertaking, including decisions on the distribution of profit or absorption of net loss;
- 15) close links to other parties:
 - a) participation in the form of ownership, direct or indirect, of at least 20% of capital of another undertaking, or right to exercise at least 20% of votes in the decision-making bodies of another undertaking or
 - b) maintenance of a business relationship with another undertaking based on permanent cooperation, particularly where this stems from a concluded agreement or agreements, where in the opinion of the Polish Financial

Supervision Authority this may contribute materially to the deterioration of the financial situation of one of those undertakings;

- 16) entities linked by capital or management — at least two entities of which at least one exercises a significant influence, directly or indirectly, on the other or others, or which constitute a single risk to the bank, since the financial problems of one of them, in particular difficulties in obtaining sources of finance or repaying liabilities, may have a negative impact on the ability to obtain sources of finance or repay liabilities by any of the other entities;
- 16a) entrepreneur — an entrepreneur as referred to in Art. 4 of the Act of 2 July 2004 on the Freedom of Business Activity (Journal of Laws of 2013, No. 220, item 672, as amended);
- 16b) foreign entrepreneur — a foreign entrepreneur as defined in Art. 5, subpara. 3 of the Act mentioned in subpara. 16a;
- 17) credit institution — an undertaking having its registered office outside the Republic of Poland, in one of the Member States of the European Union, hereinafter referred to as “Member States”, which, acting on its own behalf and for its own account, on the basis of authorisation by the competent supervisory authorities, carries out the business of receiving deposits or other funds entrusted to it, which are in any way repayable, and of extending loans;
- 18) branch of a credit institution — an organisational unit of a credit institution, which performs on its behalf and for its benefit all or some of the operations deriving from the authorisation granted to that credit institution, with all the organisational units of a given credit institution set up in the Republic of Poland and corresponding to the above characteristics being regarded as a single branch;
- 19) branch of a domestic bank abroad — an organisational unit of a domestic bank, which performs on its behalf and for its benefit all or some of the operations deriving from the authorisation granted to that domestic bank, with all the organisational units of a given domestic bank set up in a given country other than the Republic of Poland and corresponding to the above characteristics being regarded as a single branch;
- 20) branch of a foreign bank — an organisational unit of a foreign bank, which performs on its behalf and for its benefit all or some of the operations deriving from the authorisation granted to that bank, with all organisational units of the given foreign bank set up in the Republic of Poland and corresponding to the above characteristics being regarded as a single branch;
- 21) cross-border activity — the performance by a credit institution in the Republic of Poland, or by a domestic bank in a host Member State, of all or some of the operations deriving from the authorisation granted to it, without the involvement of a branch of that institution or bank;
- 22) home Member State — the Member State in which a given credit institution has been authorised to pursue business, and in which it has its registered office,

- 23) host Member State — a Member State in which a domestic bank conducts or intends to pursue its business;
- 24) intermediary institution — a bank or other institution which participates in the execution of cross-border transfers and is neither the bank of the originator nor that of the beneficiary;
- 25) investment fund corporation – an investment fund corporation as defined in the Act of 27 May 2004 on Investment Funds (Journal of Laws of 2014, No 146, item 157);
- 26) securitisation fund – a securitisation fund as defined in the Act of 27 May 2004 on Investment Funds,
- 27) sub-participation agreement - the agreement referred to in Art. 183 para. 4 of the Act of 27 May 2004 on Investment Funds;
- 28) parent institution in a Member State – a credit institution or a domestic bank whose subsidiary undertaking or an undertaking with close links within the meaning of subpara. 15 point a is a credit institution, financial institution or a domestic bank, and which are not subsidiary undertakings of a credit institution acting on the basis of an authorisation granted in the same Member State or of a financial institution or of a non-regulated parent undertaking within the meaning of Article 3 subpara. 5 of the Act on supplementary supervision which have their registered office in the territory of the same Member State, or of a domestic bank;
- 29) parent financial holding undertaking in a Member State – a parent financial or hybrid holding undertaking, which is not a subsidiary undertaking of a credit institution acting on the basis of an authorisation granted in the same Member State or of a financial institution or of a non-regulated parent undertaking within the meaning of Article 3 subpara. 5 of the Act on supplementary supervision which have their registered office in the territory of the same Member State, or of a domestic bank if this undertaking has its registered office in the territory of the Republic of Poland;
- 29a) management company – a management company as referred to in Art. 2 subpara. 10 of the Act of 27 May 2004 on Investment Funds;
- 29b) parent mixed financial holding company in a Member State – a non-regulated parent undertaking within the meaning of Article 3 subpara. 5 of the Act on supplementary supervision which is not a subsidiary undertaking of a credit institution acting on the basis of an authorisation granted in the same Member State or of a financial institution or of a non-regulated parent undertaking within the meaning of Article 3 subpara. 5 of the Act on supplementary supervision which have their registered office in the territory of the same Member State, or of a domestic bank if this undertaking has its registered office in the territory of the Republic of Poland;
- 30) EU parent institution – a parent institution in a Member State which is not a subsidiary undertaking of a credit institution or a domestic bank or of a financial institution or a non-regulated parent undertaking within the meaning

of Article 3 subpara. 5 of the Act on supplementary supervision which have their registered office in the territory of a Member State;

- 31) EU parent financial holding undertaking – a parent financial holding undertaking in a Member State which is not a subsidiary undertaking of a credit institution or a domestic bank or of a financial institution or a non-regulated parent undertaking within the meaning of Article 3 subpara. 5 of the Act on supplementary supervision which have their registered office in the territory of a Member State;
 - 32) EU parent mixed financial holding company – a parent mixed financial holding company in a Member State which is not a subsidiary undertaking of a credit institution or a domestic bank or of a financial institution or a non-regulated parent undertaking within the meaning of Article 3 subpara. 5 of the Act on supplementary supervision which have their registered office in the territory of a Member State.
2. Undertakings having close links to a domestic bank belonging to a holding company shall also be deemed to belong to the holding companies referred to in para. 1, subparas. 10–11a, 11b point a, and in subpara. 11c.
 3. The provisions of the present Act referring to Member States shall also apply to the states which are not Member States but are part of the European Economic Area.

Article 4a

1. The Polish Financial Supervision Authority shall express the opinion referred to in Art. 4, para. 1, subpara. 8, point b and subpara. 15, point b in the form of a decision. An undertaking deemed to be a parent undertaking or an undertaking having close links to a bank may request the Polish Financial Supervision Authority to reconsider the matter.
2. Within 14 days of receiving the decision of the Polish Financial Supervision Authority concerning the request to reconsider the matter, an undertaking deemed to be a parent undertaking or an undertaking having close links to a bank may file a complaint with an administrative court against the decision. The filing of the complaint shall not stay the execution of the decision.
3. A bank shall also be eligible to submit to the Polish Financial Supervision Authority a request to reconsider the matter or to file a complaint with an administrative court against the decision concerning the opinion referred to in Art. 4, para. 1, subpara. 15, point b.

Article 5

1. Banking operations shall comprise:
 - 1) acceptance of deposits payable on demand or at a specified maturity, and the operation of such deposit accounts,
 - 2) operation of other bank accounts,
 - 3) extension of loans,

- 4) issue and confirmation of bank guarantees, and issue and confirmation of letters of credit,
 - 5) issue of bank securities,
 - 6) performance of bank monetary settlements,
 - 6a) (repealed),
 - 7) performance of other operations reserved solely for banks under separate legislation.
2. Where the following operations are performed by banks, they shall also be deemed banking operations:
- 1) extension of cash advances,
 - 2) operations involving cheques and bills of exchange, and operations relating to warrants,
 - 3) providing payment services and the issue of the electronic money ,
 - 4) financial forward transactions,
 - 5) purchase and disposal of monetary claims,
 - 6) safekeeping of valuables and securities, and provision of safe deposit facilities,
 - 7) purchase and sale of foreign exchange,
 - 8) extension and confirmation of sureties,
 - 9) execution of actions commissioned [by customers], relating to the issue of securities,
 - 10) acting as an intermediary in the performance of money transfers and foreign exchange settlements.
3. (repealed).
4. Subject to the provision of para. 5 herein, the business activity involving the operations referred to in para. 1 may be carried out solely by banks.
5. Entities other than banks may perform the operations referred to in para. 1 where so authorised under the provisions of separate legislation.

Article 6

1. In addition to the performance of the banking operations referred to in Art. 5, paras. 1 and 2, banks may also:
- 1) take up or acquire shares and rights on such shares, shares in other legal persons and units in investment funds,
 - 2) incur liabilities relating to the issue of securities,
 - 3) trade in securities,
 - 4) exchange claims for assets belonging to the debtor, on terms agreed with such a debtor,
 - 5) acquire and dispose of real estate property,
 - 6) provide financial consulting and advisory services,
 - 6a) provide certification services as defined in the regulations on electronic signatures, excluding the issue of qualified certificates employed by banks in operations to which they are a party,
 - 7) provide other financial services,

- 8) perform other operations, where so authorised under the provisions of separate legislation.
2. A bank shall be required to sell the assets referred to in para. 1, subpara. 4:
 - 1) with regard to real estate property — no later than within 5 years of its acquisition,
 - 2) with regard to other assets — no later than within 3 years of their acquisition.
3. The requirement referred to in para. 2 shall not apply to the bank if it uses the acquired assets to carry out its own banking activity.

Article 6a

1. Subject to the provisions of Art. 6d, a bank may, by a written agreement, entrust an entrepreneur or a foreign entrepreneur with the performance of:
 - 1) intermediary services with regard to operations listed in Art. 5 and Art. 6, for and on behalf of the bank, regarding:
 - a) conclusion and amendment of bank account agreements concerning the bank accounts referred to in Art. 49, para. 1, pursuant to a master agreement approved by the bank,
 - b) the conclusion and amendment of credit agreements and agreements on cash loans extended to natural persons, including consumer credit as defined in the Act of 12 May 2011 on Consumer Credit (Journal of Laws of 2014, item 1497, 1585 and 1662),
 - c) the conclusion and amendment of credit agreements and agreements on cash loans for micro- and small entrepreneurs as defined in the Act of 2 July 2004 on the Freedom of Business Activity,
 - d) the conclusion and amendment of arrangement agreements on the repayment of credits and loans referred to in points b and c,
 - e) the conclusion and amendment of agreements on establishing legal security of credits and loans referred to in points b and c,
 - f) the conclusion and amendment of payment card agreements, one of the parties to which is a consumer, a micro-entrepreneur and a small entrepreneur as defined in the Act referred to in point c,
 - g) accepting cash payments, making cash withdrawals and performing cheque operations related to the operation of bank accounts by the bank,
 - h) making disbursements of and accepting repayments on loans and cash loans extended by the bank,
 - i) accepting cash payments to bank accounts operated by other banks,
 - j) accepting instructions concerning the performance of bank monetary settlements related to the operation of bank accounts by this bank,
 - k) performing operations related to issuing and safekeeping of bank securities and other securities and other operations, as well as performing other commissioned operations related to issuing and securities servicing.
 - l) the recovery of bank claims,
 - m) performing other operations upon authorisation granted by the Polish Financial Supervision Authority,

- 2) actual operations connected with banking activities.
2. Entrusting the performance of operations referred to in para.1, subpara 1, points a)-j) by the bank shall be done on the basis of a contract of agency.
3. The entrusted operations referred to in para. 1 can not include:
 - 1) bank management as defined in Art. 368, para. 1 of the Commercial Companies Code of 15 September 2000 (Journal of Laws of 2013, item 1030, as amended), hereinafter referred to as the "Commercial Companies Code", and as defined in Art. 48 of the Cooperatives Act of 16 September 1982 (Journal of Laws of 2013, item 1443), hereinafter referred to as the "Cooperatives Act", particularly the management of risk related to conducting the business of banking, including assets and liabilities management, the assessment of creditworthiness and credit risk analysis;
 - 2) conducting the internal audit of the bank.
4. The Polish Financial Supervision Authority may grant the authorisation referred to in para. 1, subpara. 1, point m) to the bank if it is necessary for the bank to entrust the performance of other operations in order to pursue the business of banking in a sound and prudent way or to significantly lower the expense related to this activity.
5. The bank shall append to the application for authorisation referred to in Art. 6a, para. 1, subpara.1, point m):
 - 1) documents concerning business activity of an entrepreneur or a foreign entrepreneur who will perform the entrusted operations,
 - 2) a draft of the agreement referred to in Art. 6a, para. 1 to be concluded with an entrepreneur or a foreign entrepreneur,
 - 3) action plans ensuring continuous and uninterrupted operation within the scope of the agreement,
 - 4) the description of technical and organisational solutions ensuring safe and proper performance of the entrusted operations, in particular, the protection of legally protected secrecy,
 - 5) the description of the risk management principles in connection with entrusting the performance of the operations referred to in Art. 6a, para. 1.
6. Provisions of Art. 33 shall apply *mutatis mutandis* to the proceedings regarding the application referred to in Art. 6a, para. 5.
7. Where the agreement on entrusting the performance of operations referred to in Art. 6a, para. 1 so provides, an entrepreneur or a foreign entrepreneur referred to in Art. 6a, para. 1 may entrust another entrepreneur or foreign entrepreneur, by a separate agreement, with the performance of:
 - 1) operations, defined in the agreement with a bank, leading to the performance of the main obligation arising from the agreement, upon the bank's written consent, or
 - 2) the operations entrusted by the bank, on a one-time basis, in the event when it is not able to perform such operations independently as a result of force majeure, for a period needed to remove the reason preventing the performance of such operations.

8. Provisions of Art. 6a, para. 2 shall apply *mutatis mutandis* to entrusting the performance of operations under Art. 6a, para 7, subpara. 2.

Article 6b

1. The liability of an entrepreneur or a foreign entrepreneur referred to in Art. 6a, para. 1 towards the bank for damage caused to customers and arising from the non-performance or improper performance of the agreement referred to in Art. 6a, paras. 1 and 7 cannot be excluded or limited.
2. The liability of a bank for damage caused to customers and arising from the non-performance or improper performance of the agreement referred to in Art. 6a, para. 1 and 7 cannot be excluded or limited.

Article 6c

1. The operations referred to in Art. 6a, para. 1 may be entrusted by a bank on a permanent or temporary basis upon fulfilment of the following conditions:
 - 1) the bank and entrepreneur or foreign entrepreneur shall have action plans ensuring continuous and uninterrupted operation within the scope covered by the agreement,
 - 2) entrusting the performance of the operations referred to in Art. 6a, paras. 1 and 7 shall not be detrimental to the compliance of the bank's activity with the provisions of law, the sound and prudent management of the bank, the effectiveness of the bank's internal audit system, the ability of the certified auditor appointed to audit the bank's financial statements by contractual agreement with the bank to perform his duties, or the protection of legally protected secrecy.
 - 3) the bank shall account for the risk associated with the entrusting of the performance of operations referred to in Art.6a, paras. 1 and 7 in its risk management system.
2. A bank shall notify the Polish Financial Supervision Authority:
 - 1) at least within 14 days prior to the date of the conclusion of the agreement stipulating the possibility of entrusting the performance of operations under Art. 6a, para. 7, subpara. 2 with the entrepreneur referred to in Art. 6d, para. 1, or the agreement stipulating that the entrusted operations will be performed outside any of the Member States – of the content of such contractual provision;
 - 2) immediately – of entrusting the performance of operations under Art. 6a, para. 7, subpara. 2
3. The bank shall keep a record of agreements referred to in Art. 6a, paras. 1 and 7, comprising at least:
 - 1) data identifying the entrepreneurs or foreign entrepreneurs with whom the bank has concluded agreements on entrusting the performance of operations,
 - 2) the scope of entrusted operations and place of their performance,
 - 3) the term of the agreements.
4. The Polish Financial Supervision Authority may require a bank to submit, in particular:
 - 1) a copy of the agreement referred to in Art. 6a, paras. 1 and 7,

- 2) explanations concerning the execution of the agreements entrusting the performance of operations,
 - 3) the action plan referred to in para.1, subpara. 1,
 - 4) documents stipulating the status of the entrepreneur or foreign entrepreneur with whom the bank has concluded the agreement,
 - 5) the description of technical and organisational solutions ensuring safe and proper performance of the entrusted operations, in particular the protection of legally protected secrecy.
 - 6) the description of principles for managing the risk connected with entrusting the performance of operations referred to in Art. 6a, paras. 1 and 7.
5. The Polish Financial Supervision Authority shall order a bank, by decision, to undertake actions aimed at amending or terminating the agreement referred to in Art. 6a, paras. 1 and 7, if:
- 1) the execution of the agreement jeopardises sound and prudent management of the bank,
 - 2) the entrepreneur or foreign entrepreneur who is a party to that agreement has forfeited the required authorisations necessary to execute the agreement.
6. Within 14 days of receiving the decision of the Polish Financial Supervision Authority referred to in para. 5, a bank may file a complaint with an administrative court. Filing such a complaint shall not stay the execution of the decision. The provisions of Art. 127 § 3 of the Code of Administrative Proceedings of 14 June 1960 (Journal of Laws of 2013, item 267 and of 2014, item 183 and 1195, hereinafter referred to as the “Code of Administrative Proceedings,” shall not apply.
7. In the case of a bank failing to amend or terminate the agreement referred to in Art. 6a, paras. 1 and 7 by the appointed date, the Polish Financial Supervision Authority may, with no need for a prior written warning notice, apply the measures referred to in Art. 138, para. 3.
8. . The provisions of Art. 136, para. 3 and Art. 141h, paras. 1, 3 and 4 shall apply *mutatis mutandis* to an entrepreneur or a foreign entrepreneur referred to in Art. 6a, paras. 1 and 7.

Article 6d

1. The conclusion of the agreement referred to in Art. 6a, paras. 1 and 7 between a bank and a foreign entrepreneur with no permanent residence or registered office in any of the Member States or an agreement stipulating that the entrusted operations are to be executed outside any of Member States shall require authorisation from the Polish Financial Supervision Authority, granted on an application of the bank.
2. The provisions of Art. 6a, para. 5 and Art. 33 shall apply *mutatis mutandis* to the proceedings concerning the application referred to in para. 1, save for the provisions of para. 3.
3. In the case of agreements referred to in:
 - 1) Art.6a, para. 7, subpara. 1 – provisions of Art. 6a, para. 5, subpara. 2 shall not apply,

- 2) Art.6a, para.7, subpara. 2 – provisions of Art. 6a, para. 5, subparas. 2 and 3 shall not apply.
4. The Polish Financial Supervision Authority may refuse to grant authorisation or revoke authorisation where:
 - 1) there is a danger of breaching legally protected secrecy,
 - 2) the provisions of law in force in the country where the entrusted operations are to be performed preclude the Polish Financial Supervision Authority from performing effective supervision,
 - 3) entrusting the performance of operations could be detrimental to the compliance of the bank's activity with the provisions of law, sound and prudent management of the bank, the effectiveness of the bank's internal audit system or the ability of the certified auditor, authorised to audit the bank's financial statements in accordance with the agreement concluded with the bank, to perform his duties.
5. The provisions of Art. 6c shall apply *mutatis mutandis*.

Article 7

1. Parties to the banking operations may make declarations of intent using the electronic media.
2. Documents related to banking operations may be drawn up on electronic media where such documents are properly created, recorded, forwarded, stored, and safeguarded. Services involving the safeguarding of such documents may be performed by banks, by companies established by banks with other undertakings, and by ancillary banking services undertakings.
3. Where the Act stipulates that a legal act shall be made in writing, the act performed in the form referred to in para. 1 shall be deemed to fulfil the requirement relative to the written form, also in the case where this form has been stipulated under pain of nullity.
4. The Council of Ministers, having sought the opinion of the President of Narodowy Bank Polski, shall specify, by regulation, the method of creating, recording, forwarding, storing and safeguarding of the documents referred to in para. 2, including cases where electronic signatures are used, so as to ensure safety of trading and protection of banks' and their customers' interests.

Article 7a

The provisions concerning lotteries and mutual bets as well as those of Art. 413 of the Civil Code of 23 April 1964 (Journal of Laws of 2014, item 121 and 827 and of 2015, item 4), hereinafter referred to as the "Civil Code", shall not apply to financial forward transactions referred to in Art. 4, para. 1, subpara. 7, point h and in Art. 5, para. 2, subpara. 4, which are the subject matter of agreements concluded by a bank or financial institution.

Article 8

A bank shall be required to maintain adequate payment liquidity, corresponding to the scale and types of business activity carried out, in a manner which ensures that all cash obligations are fulfilled according to their maturity dates.

Article 9

1. A bank shall have a management system implemented.
2. The management system consists of a set of rules and mechanisms related to decision making processes which take place in the bank and to evaluation of its banking activity.
3. The bank management system encompasses at least:
 - 1) a risk management system,
 - 2) an internal control system.

Article 9a

1. The management board of a bank shall design, implement and ensure the operation of the management system.
2. The supervisory board of a bank shall supervise implementation of the management system and assess its adequacy and effectiveness.

Article 9b

1. The objective of the risk management system shall be to identify, measure, estimate and monitor the risk present in the banking activity, in order to ensure the correctness of the process of setting up and achieving detailed goals of the business activity carried out by the bank.
2. Within the framework of the risk management system the bank shall apply:
 - 1) standard principles for determining the amount of risk to be undertaken and implement risk management principles,
 - 2) standard procedures aiming to identify, measure or assess and monitor the risk present in the bank's activity, providing for forecasted level of risk in the future,
 - 3) standard limits that restrict the risk and principles for procedures to be followed in the case limits are exceeded,
 - 4) the established management reporting system which enables the risk level to be monitored,
 - 5) and has its organisational structure adjusted to the size and profile of the risk being incurred by the bank.
3. Bank shall control the risk related to the activity of subsidiary undertakings.

Article 9c

1. The aim of the internal control system is to support decision making processes that contributes to ensuring:
 - 1) efficient and effective operation of the bank,
 - 2) reliable financial reporting,

- 3) compliance of the bank's activity with the provisions of law and internal regulations.
2. The internal control system includes as follows:
 - 1) risk control mechanisms,
 - 2) review of the compliance of bank's activity with the provisions of law and internal regulations,
 - 3) internal audit.

Article 9d

1. An organisational unit specialised in internal audits, hereinafter referred to as "internal audit unit", shall operate at banks incorporated as joint-stock companies, state banks and cooperative banks where the internal control is not executed pursuant to Art. 10.
2. The objective of the internal audit unit shall be to carry out independent and objective examinations and to evaluate the adequacy and effectiveness of the internal control system as well as to issue opinions concerning the bank management system, including the effectiveness of managing the risk related to the banking activity.

Article 9e

1. Information on the irregularities found and the conclusions resulting from the internal audit reviews conducted as well as actions undertaken in order to remove them shall be periodically submitted, at least once a year, to the bank supervisory board.
2. The supervisory board of a bank may appoint from among its members an internal audit committee that shall supervise the activities of the internal audit unit.

Article 9f

The Polish Financial Supervision Authority shall determine, by resolution, detailed principles of operation of the risk management and internal control systems.

Article 9g

The Polish Financial Supervision Authority shall determine, by resolution, the principles for determining the policy of variable components of remuneration for persons holding managerial positions at a bank.

Article 10

At cooperative banks affiliated to affiliating banks, the internal control may be performed by the affiliating bank in accordance with the principles laid down in the agreement on affiliation.

Article 10a

1. The Chairperson of the Polish Financial Supervision Authority (FSA), his deputies and members of the Polish Financial Supervision Authority, employees of the Office

of the Financial Supervision Authority (the FSA Office) and contractual employees of the FSA Office employed on the basis of a contract for specific work, mandate contract or other types of agreements of a similar nature, shall be bound by the obligation of professional secrecy.

2. Professional secrecy, as referred to in para. 1, consists in any information obtained or produced in connection with the exercise of banking supervision and this information if revealed, disclosed or confirmed may breach legally protected interest of entities which the given information directly or indirectly refers to or hinders the execution of banking supervision.
3. The obligation referred to in para. 1 shall also apply after extinction of legal relationships referred to in para. 1.
4. Subject to the provisions of paras. 5-8, the obligation referred to in para. 1 shall not be impaired in the event of :
 - 1) disclosure of the information to a competent supervision authority for the purpose of banking supervision executed by that authority;
 - 2) notification of suspected crime report;
 - 3) disclosure of the information to a central bank participating in the European System of Central Banks, necessary for the performance of the bank's statutory tasks, including tasks related to monetary policy and ensuring liquidity connected with such monetary policy, tasks related to supervision of payment, clearing and settlement systems, and tasks performed when the stability of the financial system is threatened;
 - 4) disclosure of information to the competent supervisory authorities of the Member States concerned in the event when the stability of the national financial system is threatened and in the execution of international obligations of the Republic of Poland.
5. Disclosure of the information which constitutes professional secrecy, including banking secrecy, is allowed solely in accordance with the principles and procedure specified for disclosure of information subject to the obligation of banking secrecy.
6. Provision of the information subject to the obligation of banking secrecy by a competent supervisory authority of a Member State to a competent supervisory authority of a non-Member State is possible solely when the latter guarantees the information security protection at a level at least equal to the one specified in the present article.
7. The information obtained from competent supervisory authority and subject to the obligation of professional secrecy may be disclosed solely upon the approval of that authority and may be used only for purposes specified in such an approval.
8. The approval referred to in para. 7 is not required when the information obtained from the competent supervisory authority of a Member State is transmitted to the competent supervisory authority of other Member States or provision of such information is essential for the execution of banking supervision.
9. Persons other than specified in para. 1 who got acquainted with the information which is subject to the obligation of professional secrecy, in specific cases, referred to

in para. 4 subpara. 2 and para.7 and 8, shall be bound by the obligation of professional secrecy unless separate provisions stipulate the obligation of further disclosure of this information.

10. The provisions of para. 1-9 shall also apply to the information included in documentation approved by the Office of the Financial Supervision Authority as a result of the performance of the agreement concluded under Article 71 para. 2 of the Act of 21 July 2006 on Financial Market Supervision (Journal of Laws of 2012, item 1149, as amended).

Article 11

1. The provisions of the Code of Administrative Proceedings shall apply *mutatis mutandis* to the decisions of the President of Narodowy Bank Polski stipulated by the act regarding issue of authorisation, unless the present Act provides otherwise.
2. Decisions of the Polish Financial Supervision Authority with respect to:
 - 1) assessment,
 - 2) authorisation,
 - 3) consent,
 - 4) ordering a bank to amend or terminate an agreement,
 - 4a) prohibiting a bank from exercising voting rights on shares of a domestic bank and from exercising powers of a parent undertaking
 - 5) ordering the sales of shares by a specified date,
 - 6) refusal to send notification to the competent supervisory authorities of a host Member State,
 - 7) refusal to notify the competent supervisory authorities of a host Member State,
 - 8) prohibiting a financial institution from carrying out business activity in a host Member State,
 - 9) ordering a bank to cease payouts from net earnings,
 - 10) ordering a bank, a branch of a foreign bank or a branch of a credit institution to refrain from opening new offices,
 - 11) suspending members of the management board of a bank or financial institution from office,
 - 12) restricting the scope of activity of a bank, branch of a foreign bank or branch of a credit institution,
 - 13) imposing a financial penalty on a bank, branch of a foreign bank, branch of a credit institution or on a financial institution,
 - 14) liquidation of a bank or branch of a foreign bank,
 - 15) setting the scope of powers of a liquidator or another person appointed by the competent supervisory authorities of a Member State to put a credit institution into liquidation,
 - 16) dismissing a member of the management board of a bank,
 - 17) imposing a financial penalty on members of the management board of a bank or financial institution or the management of a branch of a credit institution,

- 18) prohibiting or restricting the extension of loans and cash advances to the bank's shareholders (members), members of the management and supervisory boards, and staff,
 - 19) a request to call an extraordinary general meeting,
 - 20) obliging the bank to increase its own funds, as stipulated by Art. 138a and Art. 138b, para.1,
 - 21) imposing on a bank an additional capital requirement,
 - 22) appointing or dismissing a trustee,
 - 23) establishing a receivership,
 - 24) takeover of a bank by another bank, with the consent of the acquiring bank,
 - 25) applying to the Council of Ministers for putting a state bank into liquidation,
 - 26) dismissing a liquidator of a bank appointed by the bank,
 - 27) suspending a bank's activity,
 - 28) recognizing a branch of credit institution to be relevant,
- shall have the power of final administrative decision and be subject to immediate execution.
3. Unless the present Act provides otherwise, the opinions referred to in the Act shall be issued within 30 days.

CHAPTER 2

ESTABLISHMENT AND ORGANISATION OF BANKS, BRANCHES AND REPRESENTATIVE OFFICES OF BANKS

Article 12

Banks may be established as state banks, cooperative banks or banks incorporated as joint-stock companies.

Article 13

1. Either natural or legal persons may be founders of a bank incorporated as a joint-stock company, with the proviso that there shall be no fewer than three such founders.
2. Only natural persons may be the founders of a cooperative bank, in the number required for the establishment of a cooperative laid down in the Cooperative Law.
3. The provision of para. 1 shall not apply to a bank that is founded by the State Treasury, a domestic bank, credit institution, foreign bank, domestic or foreign insurance company, domestic or foreign reinsurance company or an international financial institution.

Article 13a

The management board of a bank shall operate and perform its functions at the registered office specified in that bank's articles of association.

A. State banks

Article 14

1. A state bank may be established by regulation of the Council of Ministers at the request of the minister competent for the State Treasury matters, the latter having first obtained the opinion of the Polish Financial Supervision Authority. The same procedure shall apply to the liquidation of a state bank, save for the cases referred to in Art. 147, para. 1, subpara. 3.
2. The regulation of the Council of Ministers establishing a state bank shall specify the name, registered office, objectives and scope of activity of the bank, and also the bank's registered equity fund, including the funds assigned from the assets of the State Treasury, which become the bank's assets.
3. State banks shall not be subject to entry in the National Court Register.

Article 15

1. Supervisory board and management board are a state bank management bodies.
2. Members of supervisory boards and management boards shall not be allowed to engage in activity in competition with that of the bank. In particular, they shall not be members of the supervisory or management boards of another bank, unless the state bank holds equity in that other bank.

Article 16

1. The supervisory board shall be appointed for a term of 3 years and shall be composed of persons with appropriate qualifications in the field of finance. The chairperson of the supervisory board shall be appointed and dismissed by the Prime Minister at the request of the minister competent for the State Treasury matters.
2. The minister competent for the State Treasury matters shall appoint the members of the supervisory board from persons who are not members of the bank's management board. Members of the supervisory board shall be dismissed under the same procedure as that applied for their appointment.

Article 17

1. The president of the management board of a state bank shall be appointed and dismissed by the supervisory board.
2. The remaining members of the management board shall be appointed and dismissed by the supervisory board at the request of the president of the management board.
3. The appointment of the president of the management board and one other member of the management board shall require the approval of the Polish Financial Supervision Authority. The provisions of Art. 22b shall apply *mutatis mutandis*.

Article 18

1. The supervisory board shall supervise the activity of the state bank, approve the financial statements presented by the management board, together with the

distribution of profit and method of absorbing losses, and shall receive reports on the bank's activity and issue recommendations to the management board; it may also suspend from office members of the management board.

2. Subject to the provisions of para. 1, the bank management board shall examine matters concerning the bank's activity and shall adopt resolutions on these matters, implementation of such resolutions being ensured by the president of the management board.
3. The supervisory board shall repeal resolutions of the management board where it finds that these fail to comply with provisions of law or the bank's articles of association.
4. The president of the management board of a state bank shall represent the bank externally, chair meetings of the management board and organise the bank's activity.
5. The detailed responsibilities of the supervisory board and management board of a state bank shall be specified in the bank's articles of association, as shall the persons authorised to represent the bank externally.

Article 19

The articles of association of a state bank shall be conferred on it by regulation of the minister competent for the State Treasury matters, acting in consultation with the minister competent for financial matters and having sought the opinion of the Polish Financial Supervision Authority.

B. Cooperative banks

Article 20

1. A cooperative bank is a bank which is a cooperative, to which the provisions of the Cooperative Act shall apply with regard to the matters which are not regulated under the Act of 7 December 2000 on the Operations of Cooperative Banks, their Affiliation, and Affiliating Banks (Journal of Laws of 2014, No. 109), hereinafter referred to as the "Act on the Operations of Cooperative Banks, their Affiliation, and Affiliating Banks", or under the present Act.
2. The articles of association of a cooperative bank, in order to be effective, shall be drawn up in the form of a notarial deed.

C. Banks incorporated as joint-stock companies

Article 21

The establishment and activity of banks incorporated as joint-stock companies shall be governed by the provisions of the Commercial Companies Code, unless the present Act provides otherwise.

Article 22

1. Responsibilities of a supervisory body shall be performed by a supervisory board, consisting of no fewer than 5 natural persons.
2. Members of the supervisory board shall be appointed and dismissed by a general meeting.
3. Banks shall advise the Polish Financial Supervision Authority of the composition of the supervisory board and of any changes in the composition thereof immediately after its appointment or after any changes in the composition thereof.

Article 22a

1. The management board of a bank shall consist of no fewer than 3 natural persons who shall be appointed and dismissed by the supervisory board, subject to the provisions of Art. 22b.
2. The supervisory board shall advise the Polish Financial Supervision Authority of the composition of the management board and of any changes in the composition thereof immediately after its appointment or after any changes in the composition thereof. The supervisory board shall also advise the Polish Financial Supervision Authority of the members of the management board who, as a result of the division of responsibilities, shall in particular manage credit risk and the internal audit unit.

Article 22b

1. The appointment of 2 members of the management board, including the president, shall require the approval of the Polish Financial Supervision Authority. The application for such approval shall be submitted by the supervisory board.
2. The Polish Financial Supervision Authority may require the submission of such information and documents concerning the persons mentioned in para. 1 as may be necessary to grant the approval.
3. The Polish Financial Supervision Authority shall refuse approval for the appointment of the persons referred to in para. 1 where such persons:
 - 1) have been convicted of intentional or fiscal offence, excluding the offences that are prosecuted upon private accusation,
 - 2) were responsible for documented losses at their places of employment or in connection with their functions as members of bodies of legal persons,
 - 3) have been prohibited from carrying out business activity on their own behalf or from performing functions of representatives or attorneys of an entrepreneur, members of supervisory boards or audit committees in a joint-stock company, limited liability company or cooperative,
 - 4) do not fulfil the requirements stipulated in Art. 30, para. 1, subpara. 2, subject to the provisions of para. 4.
4. The Polish Financial Supervision Authority shall, in the form of a decision issued at the request of the supervisory board of a bank, waive the requirement concerning proven knowledge of the Polish language referred to in Art. 30, para. 1, subpara. 2, if it is not necessary for prudential supervision, taking into account in particular the level of permissible risk or the scope of activity of the bank.

5. The Polish Financial Supervision Authority may refuse approval for the appointment of the persons referred to in para. 1 where such persons:
 - 1) are the subject of penal proceedings or court proceedings involving fiscal offences,
 - 2) have been convicted of criminal offences other than those referred to in para. 3, subpara. 1.
6. The provisions of para.1 shall not apply to the reappointment of persons listed in para.1 for the next term of office and to the appointment of persons approved as members of the first management board in the authorisation to establish the bank providing that the circumstances stipulated in paras. 3 and 5 do not apply.
7. The decision referred to in para. 1 may specify the date by which the persons referred to in para. 1 should be appointed. If the person referred to in the decision is not appointed by the specified date, the decision shall expire. Article 162 § 3 of the Code of Administrative Proceedings shall not apply.

Article 22c

1. The minutes of the general meeting shall be drawn up pursuant to Art. 421 of the Commercial Companies Code and should include:
 - 1) content of a motion lodged during the general meeting,
 - 2) name and surname of the person lodging the motion,
 - 3) name and surname or company name of the person on behalf of whom the motion was lodged,
 - 4) decision concerning the motion.
2. The minutes referred to in para. 1 should be submitted to the Polish Financial Supervision Authority within 14 days from the date of closure of the general meeting.

Article 23-24 (repealed).

Article 25

1. Any party intending to take up or acquire shares in a domestic bank, directly or indirectly, or to exercise rights on shares of such a domestic bank in the amount which would result in that party being entitled to or more than 10%, 20%, one third or 50% of the total number of votes at a general meeting or to take or acquire shares in the authorised capital shall be required to notify each time the Polish Financial Supervision Authority of its intention of taking up or acquiring such shares.

Any party intending, directly or indirectly, to become a parent undertaking in a way different than by taking up or acquiring shares, rights on shares in a domestic bank in the amount guaranteeing the majority of votes at the general meeting, shall be required each time to notify the Polish Financial Supervision Authority of such intention.
2. A party is deemed to become indirectly a parent undertaking of a domestic bank or to take up or acquire shares or voting rights on shares of a domestic bank indirectly when it becomes a parent undertaking of a party that directly becomes a parent undertaking of a domestic bank or directly takes up or acquires shares or voting rights

on shares, and also a party that takes actions as a result of which it will become a parent undertaking of a party that is a parent undertaking of a domestic bank or that holds shares or rights on shares in a domestic bank.

3. In the case where a party who intends to:
 - 1) directly take up or acquire shares or rights on shares in a domestic bank or to become a parent undertaking of a domestic bank is a subsidiary undertaking then only this party together with the primary parent undertaking shall notify the Polish Financial Supervisory Authority,
 - 2) indirectly take up or acquire shares or rights on shares in a domestic bank, or to become a parent undertaking of a domestic bank is a subsidiary undertaking then only the primary parent undertaking notifies the Polish Financial Supervisory Authority,
4. The notification requirement referred to in para. 1 shall apply to:
 - 1) the pledgee and the usufructuary of shares, if pursuant to Art. 340, para. 1 of the Commercial Companies Code they are entitled to exercise voting rights,
 - 2) to any party who has obtained the right to exercise a proportion of voting rights, specified in para. 1 as a result of actions other than taking up or acquiring of shares or rights on shares in a domestic bank, in particular as a result of an amendment to the articles of association or due to expiry of the preference attached to shares or limitation of voting rights attached to share rights, also as a result of taking up shares or rights on shares in a domestic bank in the proportion which ensures taking up or exceeding proportions specified in para. 1 of total number of voting rights at a general meeting or shares in the authorised capital by heredity.
5. In the case specified in para. 4 the notification requirement arises before execution of voting rights on shares or execution of powers of a parent undertaking against a domestic bank. Provisions of Art. 25a-25n shall apply *mutatis mutandis*.
6. Provisions of para. 2 and 3 shall apply *mutatis mutandis* to the parties referred to in para. 4.
7. Provisions of para. 1-6 and 9 shall apply *mutatis mutandis* where two or more parties act together pursuant to an agreement or understanding on the execution of voting rights on shares in proportion specified in para. 1 or execution of authorisations of a parent undertaking of a domestic bank.
8. Where the parties act together pursuant to an agreement or understanding, as referred to in para. 7, all parties to the agreement shall forward the notification.
9. Provisions of para. 1 shall not apply when shares of a domestic bank are taken up or acquired by a domestic bank, credit institution, brokerage house, or an investment firm having its registered office in another EU Member State, at the execution of agreement on investment sub-issue, as defined in the Act of July 29, 2005 on Public Offering and the Conditions for Introducing Financial Instruments to the Organised Trading System and on Public Companies if
 - 1) rights on shares shall not be exercised in order to integrate management of a domestic bank,

- 2) shares in a domestic bank are to be transferred within a year of the date of their taking up or acquisition.

Article 25a

1. The party submitting the notification referred to in Art. 25 para. 1 shall also inform about direct and indirect holdings of shares and rights on shares of a domestic bank, referred to in Art. 25 para 1, as well as about parent undertakings of this party and agreements concluded. The party shall also inform on actual and legal status of the party enabling other parties to exercise rights on shares of a domestic bank or execute authorisations of a parent undertaking of a domestic bank.
2. The party referred to in para 1 shall indicate in the notification the way of executing the intention which the notification refers to and present evidence showing the existence of such intention included in the notification, in particular an appropriate contract or agreement; and where the intention is going to be executed at a regulated market – an appropriate statement in this regard.
3. Where the notifying party is:
 - 1) an insurance company, reinsurance company, credit institution, investment firm or management company which have been authorised to carry out their business in a Member State,
 - or
 - 2) a parent undertaking or an undertaking being in a similar relationship with an insurance company, reinsurance company, credit institution, investment company or a management company which have been authorised to carry out their business in a Member State, the notification includes appropriate information in this regard, showing in particular, the name and address of the registered office of the insurance company, reinsurance company, credit institution, investment firm or management company, referred to in para. 2; where the circumstances stipulated in paras. 1 and 2 are not applicable, the notification includes proper statement in this regard.

Article 25b

1. The party submitting the notification referred to in Art. 25 para. 1 shall present with such notification information concerning:
 - 1) identification of the notifying party, persons managing its activity and the persons proposed for members of the domestic bank's management board, unless the notifying party intends to introduce changes in this regard,
 - 2) identification of the domestic bank specified in Art. 25 para. 1,
 - 3) professional, business or statutory activity of the entity and persons referred to in para. 1, in particular, objectives, scope and place of activity, its course so far, as well as education of the notifying party, who is a natural person, and persons referred to in para. 1,

- 4) a group to which the notifying party belongs, in particular its structure, undertakings, legal and actual capital, financial and personal ties with other parties,
 - 5) economic and financial standing of the notifying party,
 - 6) criminal conviction or conviction relating to tax offences, conditionally discontinued proceedings and disciplinary proceedings that ended up with punishment, as well as other administrative and civil proceedings concerning the notifying party or persons, referred to in para. 1, which may affect evaluation of the notifying party in view of the criteria specified in Art. 25h para.2,
 - 7) ongoing criminal proceedings relating to intentional offences – with the exception of offences prosecuted under private accusation – or proceedings relating to tax offences, and other ongoing administrative, disciplinary and civil proceedings which may affect evaluation of the notifying party in the light of criteria specified in Art. 25h para. 2, pursued against the notifying party or persons specified in para. 1, or proceedings connected with the activity of such a party or those persons,
 - 8) actions aiming at taking up or acquiring shares or rights on shares in the amount ensuring that the party reaches or exceeds the threshold levels specified in Art. 25 para. 1 or at becoming a parent undertaking of a domestic bank, and, in particular, achieving target share in the total number of votes at the general meeting of a domestic bank, and the authorisations connected with that share, way and sources of financing the taking up or acquisition of shares or rights on shares, and agreements concluded in connection with those actions and actions undertaken with the approval of other parties,
 - 9) the notifying party's intentions concerning future activity of a domestic bank, in particular marketing, operational and financial plans, as well as organisation and management, taking into consideration the commitments referred to in Art. 25h para. 3.
Information on qualifications and professional experience, and also information specified in para. 1 subparas. 6 and 7 are not required in the case of the notifying party and persons managing its activity where the notifying party is a domestic bank, credit institution, insurance company, reinsurance company, brokerage house, investment firm and managing company which have obtained approval for performing activity in a Member State, unless such a circumstance is specified in the notification.
3. The minister competent for financial institutions shall specify by regulation documents which should be enclosed to the notification in order to present information described in para. 1, taking into consideration the requirement of providing a good proportion of the required information depending on the influence of the notifying party on the management of a domestic bank.

Article 25c

1. The notification and the documents enclosed should be written in Polish or translated into Polish. Translation should be done by a sworn translator or a competent consul of the Republic of Poland.
2. Official documents should be authorised by a consul of the Republic of Poland before their translation. The obligation of document legalisation shall not apply where international agreements to which the Republic of Poland is a party provide otherwise.

Article 25d

Where justified, in particular, in cases where law of a competent country does not provide for compilation of the required documents the notifying party or a person whom the matter refers to, instead of such documents, may submit a statement including the required information.

Article 25e

1. The party submitting the notification, referred to in Art. 25 para. 1, whose place of residence or registered office is located outside the Republic of Poland, shall be required to appoint a service agent in the Republic of Poland.
2. Where the requirement, referred to in para. 1, is not satisfied, process letters shall be included in file with the delivery effect, except for the decision on closing the proceedings relating to the notification. The Polish Financial Supervision Authority shall inform the notifying party in writing about the effect referred to in the previous sentence.

Article 25f

Where the notifying party, referred to in Article 25 para.1, is the party referred to in Art. 25a para. 3 subparas. 1 or 2, in order to establish if the evidence referred to in Art. 25h para.1, subpara. 3 exists, the Polish Financial Supervision Authority shall request in writing that competent supervisory authorities provide information specified in Art. 25h para. 2.

Article 25g

1. Immediately after the receipt of the notification, not later than within 2 working days, the Polish Financial Supervision Authority shall confirm such a receipt in writing.
2. In cases where some information is missing in the notification or some information or documents have not been appended thereto the Polish Financial Supervision Authority shall require the notifying party to supplement the notification with the missing information or documents by a set date.
3. After the receipt of supplementary information or documents the Polish Financial Supervision Authority shall, without delay, no later than within 2 working days, confirm such a receipt in writing.
4. Together with the acknowledgment of receipt of the notification and all required information and documents, the Polish Financial Supervision Authority shall inform

the notifying party on the time limit for filing the objection referred to in Art. 25h para.1.

5. Before the end of the 50th working day, which is the time limit for filing the objection, the Polish Financial Supervision Authority may call on the notifying party in writing to submit additional necessary information or documents within 20 days from the receipt of such a call, and in the case where:
 - 1) the notifying party's place of residence or registered seat is located in a country other than a Member State and supervision is exercised by supervisory authorities of a country other than a Member State,
 - 2) the notifying party is not subject to insurance or capital market supervision neither banking supervision exercised by supervisory authorities of a Member State– within a specified time limit but not less than 20 and no more than 30 working days from the date of receipt, indicating the scope of the required information or documents.
6. In the case of the call specified in para. 5 the limitation period for the service of the decision on the objection shall be suspended from the day of making the call to the day when the decision or documents are received, however, not longer than until the end of the time limit for submission of information or documents.
7. The Polish Financial Supervision Authority shall confirm in writing the receipt of the information or documents specified in para. 5, no later than within 2 working days from their receipt.
8. If there are further calls from the Polish Financial Supervision Authority for submitting additional information or documents, deadlines for submitting the information or documents specified in para. 5 shall not apply. These calls do not cause suspension of limitation period for delivery of the decision concerning the objection.

Article 25h

1. The Polish Financial Supervision Authority shall file an objection, by way of decision, against taking up or acquisition of shares or rights on shares or becoming a domestic bank's parent undertaking, if:
 - 1) the notifying party has not remedied defects in the notification or in the documents or information enclosed to the notification,
 - 2) the notifying party did not submit in time the additional information or documents required by the Polish Financial Supervision Authority,
 - 3) this is justified by the requirement of cautious and stable management of a domestic bank or due to assessment of the notifying party's financial standing.
2. As part of the assessment relating to the occurrence of the condition specified in para. 1 subpara. 3, the Polish Financial Supervision Authority shall examine if the notifying party has shown that:
 - 1) it guarantees exercising its rights and obligations in a way adequately safeguarding interests of the domestic bank's customers and ensuring security of funds deposited in the domestic bank,
 - 2) managers, who will manage the domestic bank, warrant that bank's operations will be carried out in a way adequately safeguarding the interests of customers of a

- domestic bank and ensuring security of funds deposited in the domestic bank, as well as they have adequate professional experience,
- 3) it has a good financial standing, in particular, as regards the current scope of activities and the impact of the currently implemented investment plans on the notifying party's financial standing in the future, along with the future financial standing of the domestic bank,
 - 4) it ensures that the domestic bank will satisfy prudential requirements resulting from legal regulations, including capital requirements, liquidity standards, internal control, risk management and – in particular – that the structure of the group of which the bank will become a part, will enable efficient supervision and effective exchange of information between competent supervision authorities as well as determination of competences of such authorities,
 - 5) funds connected with taking up or acquisition of shares or rights on shares or connected with other actions undertaken in order to become a parent undertaking, or causing that a domestic bank is going to become a subsidiary undertaking do not come from illegal or undisclosed sources neither are connected with terrorism financing, and that because of the intended taking up or acquisition of shares or rights on share in other actions undertaken with the aim to become a parent undertaking there is no higher risk of committing an offence, and of other actions connected with putting into circulation funds coming from illegal or undisclosed sources or connected with terrorism financing.
3. When performing the assessment, referred to in para. 1 subpara.3, the Polish Financial Supervision Authority shall take into consideration, in particular, commitments regarding the domestic bank and prudential and stable management of the bank undertaken by the party in connection with the conducted procedure.
 4. The Polish Financial Supervision Authority may, within the time specified in Art. 25i para. 1, issue a decision on lack of grounds for filing the objection provided that it finds out that there are no circumstances specified in para. 1.
 5. When issuing the decision referred to in para. 4, the Polish Financial Supervision Authority may determine the date of taking up or acquisition of shares or rights on shares or the date of assuming the powers of a parent undertaking of a domestic bank.
 6. The date referred to in para. 5 may be extended *ex officio* or at the request of the notifying party.

Article 25i

1. The Polish Financial Supervision Authority shall deliver the decision on the objection, referred to in Art. 25h para. 1, within 60 working days from the day of the receipt of the notification and all required information and documents no later than within 2 working days after the issue date of the decision.
2. The time limits envisaged for delivery of a decision on ending the proceedings relating to the objection shall be deemed observed provided that the decision has been posted at a postal outlet of a designated operator within the meaning of the Act of 23

November 2013 – Postal Law (Journal of Laws, item 1529) before the expiry of such time-limits.

Article 25j

The notifying party may accomplish the intention expressed in the notification when the Polish Financial Supervision Authority does not deliver the decision on objection, referred to in Art. 25i para. 1, within 60 working days or the Polish Financial Supervision Authority issues a decision on lack of grounds for filing the objection.

Article 25k

Where the decision on the objection is quashed by an administration court the period, referred to in Art. 25i para. 1, shall begin to run from the day the Polish Financial Supervision Authority has been delivered final and legally binding ruling of an administration court.

Article 25l

1. Where shares or rights on shares are taken up or acquired:
 - 1) in breach of the provision of Art. 25 para. 1 or
 - 2) despite the objection having been filed by the Polish Financial Supervision Authority, referred to in Art. 25h para. 1 or
 - 3) before the end of the period authorising the Polish Financial Supervision Authority to file the objection referred to in Art. 25h para. 1, or
 - 4) after the end of the time limit set by the Polish Financial Supervision Authority for taking up or acquisition of shares or rights on shares, referred to in Art. 25h para. 5,
 - voting rights on those shares may not be exercised, subject to the reservation under Art. 25m.
2. In case of powers of a parent undertaking of a domestic bank being exercised:
 - 1) in breach of the of provision of Art. 25 para. 1 or
 - 2) when the Polish Financial Supervision Authority has filed the objection, referred to in Art. 25h para. 1, or
 - 3) before the end of the period authorising the Polish Financial Supervision Authority to file the objection referred to in Art. 25h para. 1, or
 - 4) if such powers have been acquired after the end of the time limit specified in Art. 25h para. 5
 - members of the management board of a domestic bank appointed by a parent undertaking or those who are members of the management board, proxies or persons performing managerial functions at a parent undertaking are not allowed to participate in actions considered as representation of a domestic bank; where it is impossible to establish the board members who have been appointed by a parent undertaking, the appointment of the management board shall be ineffective, subject to the reservation stipulated in Art. 25m.

3. Resolutions of the general meeting of a domestic bank adopted in breach of the provisions of para. 1 are invalid, unless they meet quorum requirement and the majority of votes cast without taking into consideration invalid votes. In cases referred to in para. 1, also the Polish Financial Supervision Authority has the right to bring an action for a declaration of the invalidity of a resolution of the general meeting. The provision of Art. 425 of the Commercial Companies Code shall apply *mutatis mutandis*.
4. Actions considered as representation of a domestic bank are performed with the participation of members of the management board in breach of the provisions of para.2 are invalid. The provision of Art.58 para. 3 of the Civil Code shall apply *mutatis mutandis*.
5. In the case referred to in paras. 1 or 2, the Polish Financial Supervision Authority may, by decision, order that domestic bank's shares shall be transferred within the time fixed.
6. If the shares are not transferred within the period referred to in para.5, the Polish Financial Supervision Authority may impose on a shareholder of a domestic bank a fine up to the amount of PLN 10,000,000, establish receivership or revoke the approval for setting up a bank, or take a decision to put the bank into liquidation. Provisions of Art. 145, Art. 147 para. 3 and Art. 153-156 shall apply *mutatis mutandis*.

Article 25m

Where interests of domestic bank's customers so require, and the applicant shows that the condition referred to in Art. 25h para. 1 subpara. 3 has not been satisfied, the Polish Financial Supervision Authority may, in particularly justified cases, by way of decision issued at the request of a shareholder or parent undertaking of a domestic bank, release prohibitions referred to in Art. 25l paras. 1 and 2. The applicant shall enclose information referred to in Art. 25b para. 1 to his request.

Article 25n

1. Where this is justified by the requirement of sound and prudent management of a domestic bank, in view of assessment of the financial standing of an entity, including the founder of a domestic bank, which has obtained, directly or indirectly, the right to exercise vote at a general meeting at levels specified in Art. 25 para.1 or has become, directly or indirectly, a domestic bank's parent company, due to possible impact of this entity on the bank, in particular, when it is proved that the entity fails to respect the commitments referred to in Art. 25h para. 3 or the commitments referred to in Art. 30, para 1b, the Polish Financial Supervision Authority may, by decision, prohibit execution of voting rights on shares of a domestic bank held by this entity or execution of powers of a parent undertaking to which it is entitled. While assessing if there is a reason for imposing this prohibition, the provisions of Art. 25h, paras. 2 and 3 and Art. 30, para. 1b shall apply *mutatis mutandis*.
2. A resolution of the general meeting of a domestic bank is invalid if voting rights have been exercised in the vote on resolution in respect to which the Polish Financial

Supervision Authority took a decision referred to in para.1, unless the resolution satisfies the requirements relating to quorum and majority of votes cast without taking into consideration invalid votes. Also the Polish Financial Supervision Authority has the right to bring an action for declaration of invalidity of a resolution. The provision of Art. 425 of the Commercial Companies Code shall apply *mutatis mutandis*.

3. If, based on para. 1, the Polish Financial Supervision Authority issued a decision prohibiting execution of powers of a parent undertaking, provisions of Art. 251 para. 2 and 4 shall apply *mutatis mutandis*.
4. In the case of the decision referred to in para. 1 the Polish Financial Supervision Authority may, by way of decision, order disposal of shares within the time fixed.
5. If the shares are not transferred within the period referred to in para. 4, the Polish Financial Supervision Authority may impose on a domestic bank's shareholder a fine of up to PLN 10,000,000, establish receivership or revoke the approval for setting up a bank, or take a decision to put the bank into liquidation. Provisions of Art. 145, Art. 147 para. 3 and Art. 153-156 shall apply *mutatis mutandis*.
6. At the request of a shareholder or a parent undertaking the Polish Financial Supervision Authority shall quash the decision issued on the basis of para. 1, provided that the reasons for such decision have disappeared.
7. Provisions of paras 1-6 shall apply *mutatis mutandis* in the case referred to in Art. 25 para. 7 to undertakings which are parties to the agreement referred to herein.

Article 25o

Any party that has taken up directly or indirectly, or acquired shares or right on shares in a domestic bank, where these shares, together with any taken up or acquired previously, caused that the party reached or exceeded the threshold of 5%, 10%, 20%, 25%, one third, 50%, 66% or 75% of the total number of votes at a general meeting or has become a parent undertaking of a domestic bank shall be required each time to notify immediately the bank concerned of taking up or acquisition of its shares. The bank shall forward this notification to the Polish Financial Supervision Authority within 14 days of receipt. Where the domestic bank's articles of association provide for any voting preference or limitation attached to shares, the notification should also concern the share in the authorised capital in the amount referred to in the first sentence and the corresponding number of votes without preferences or limitations. Provisions of Art. 25 paras. 2-7 shall apply *mutatis mutandis*.

Article 25p

Any party intending to dispose, directly or indirectly, its domestic bank's shareholding where:

- 1) the holding in question entitles it to exercise over 10% of voting rights at a general meeting,
- 2) the proportion of shares remained after the transfer will entitle that party to less than 10%, 20%, 25%, one third, and 50% of voting rights at a general meeting,

– shall be required to notify the Polish Financial Supervision Authority of their intentions. Where the bank's articles of association provide for any voting preference or limitation attached to shares, the notification shall also concern the share in the authorised capital in the amount specified in the first sentence and the corresponding number of votes without preference or limitation. Provisions of Art. 25 paras. 2-7 shall apply *mutatis mutandis*.

Article 25r

The requirement referred to in Art. 25o and 25p shall apply *mutatis mutandis* in the case of taking up or disposal of bonds convertible into shares in a domestic bank, depositary receipts and also any other securities to which the right or obligation to acquire shares in a bank is attached.

Article 25s.

The provisions of Art. 25-25r shall apply *mutatis mutandis* to cooperative banks which are cooperatives of legal persons, whose articles of association provide for a method of determining the voting rights of members other than that stipulated in the first sentence of Art. 36 § 3 of the Cooperatives Act.

Article 26-26c (repealed).

Article 27

1. The acquisition or holding of shares by a subsidiary undertaking shall be deemed to constitute the acquisition or holding of such shares by the parent undertaking.
2. The provisions of the present Act shall not prejudice those of Chapter IX of the Act referred to in Art. 4, para. 1, subpara. 8.

Article 28

1. Shares in banks shall be registered by name, with the exception of those dematerialised under the provisions of the Act of 29 July 2005 on Trading in Financial Instruments (Journal of Laws of 2014, item 94 and 586). The disposal of registered shares by shareholders within one year of the date the bank is entered in the business register shall require the approval of the Polish Financial Supervision Authority.
2. Where the shares in a bank are excluded from the regulated market or the dematerialisation of shares in the bank has been cancelled under the provisions, as referred to in para. 1, the bearer shares shall be exchanged for registered shares.
3. The provisions of Art. 336, paras. 1 and 2 of the Commercial Companies Code shall not apply to shares of a domestic bank acquired by the founder in the case referred to in Art. 42a.

Article 29 (repealed).

D. Procedures governing the establishment of banks

Article 30

1. The establishment of a bank may be performed where:
 - 1) it is ensured that the bank will be provided with:
 - a) own funds commensurate to the kinds of banking activity anticipated and the scale of operations intended,
 - b) premises equipped with technical facilities appropriate for the proper safekeeping of funds and valuables, taking into consideration the scope and kinds of banking activity to be conducted,
 - 2) the founders and persons proposed for members of the bank's management board, including the president, give adequate guarantee of the sound and prudent management of the bank, and at least two of the persons proposed for members of the bank's management board are adequately educated and have professional experience necessary to manage a bank, as well as a proven knowledge of the Polish language,
 - 3) (repealed),
 - 4) the founders submit a business plan of the bank for at least the immediate three years which indicates that this activity will not endanger the funds held on the bank.
- 1a. The Polish Financial Supervision Authority shall, in the form of a decision issued at a request of the founders, depart from the requirement concerning the proven knowledge of the Polish language referred to in para. 1, subpara. 2, if it is not necessary for prudential supervision, taking into account in particular the level of permissible risk or the scope of activity of the bank.
- 1b. When performing the assessment, in the process of authorizing the establishment of a bank, whether the founders satisfy the requirement referred to in para. 1, subpara. 2, the Polish Financial Supervision Authority shall take into consideration, in particular, commitments made by the founders in connection with the process, regarding the bank to be established or sound and prudent management of that bank.
2. Part of the initial capital may be provided in the form of non-cash contributions, in the form of equipment or real estate property, where such will be of direct use in carrying out banking activity, subject, however, to the cash contribution to the initial capital being no less than the amount specified in Art. 32, para. 1, and to the value of the non-cash contributions not exceeding 15% of the initial capital.
3. (repealed).
4. In particularly justified cases, the Polish Financial Supervision Authority may give consent for the limit referred to in para. 2 to be exceeded.
5. A bank's initial capital shall not come from a loan or credit, or be derived from undocumented sources.

Article 30a

A bank incorporated as a joint-stock company and a cooperative bank may be established after having got the authorisation from the Polish Financial Supervision Authority.

Article 31

1. An application to the Polish Financial Supervision Authority for authorisation to establish a bank should include:
 - 1) the bank's proposed name and registered office,
 - 2) specification of banking operations for which the bank is to be authorised, and information on the objectives and scope of intended activity,
 - 3) information on:
 - a) the founders and persons proposed for members of the bank's management board,
 - b) the bank's initial capital.
2. The application shall have appended thereto:
 - 1) a draft of the bank's articles of association,
 - 2) the bank's programme of operations and financial plan for at least the immediate three years,
 - 3) the documents required by the Polish Financial Supervision Authority on the bank's founders and their financial situation,
 - 3a) the documents referred to in Art. 82, para. 2, subparas. 2-5 and 7 of the Act of 29 July 2005 on Trading in Financial Instruments, corresponding to the scope of activities referred to in Art. 69, para. 2, subparas. 1-7 of that Act, which the bank intends to perform pursuant to Art. 70, para. 2 of that Act.
 - 4) the opinion of the competent supervisory authorities of the country where the applicant has its registered office, if the founder is a foreign bank.
3. The draft articles of association referred to in para. 2, subpara. 1 shall specify, in particular:
 - 1) the company name, which should contain the term "bank" as a separate word, distinguish itself from the names of other banks and indicate whether the bank in question is to be a state bank, a bank incorporated as a joint-stock company, or a cooperative bank,
 - 2) the bank's registered office, objectives and scope of activity, taking into consideration operations referred to in Art. 69, para. 2, subparas. 1-7 of the Act of July 29, 2005 on Trading in Financial Instruments, which the bank intends to perform pursuant to Art. 70, para. 2 of that Act.
 - 3) the management bodies and their competences, including particularly the competences of the members of the management board referred to in Art. 22b, para. 1, and the decision making principles, the basic organisational structure of the bank, the procedures applicable to making legally binding statements regarding property rights and obligations, the procedures for issuing internal regulations and the procedure for making decisions concerning the undertaking of

- commitments or disposal of assets whose total value with regard to a single entity exceeds 5% of the bank's own funds,
- 4) the principles of functioning of the internal control system,
 - 5) the own funds and financial management principles.
4. Where the application for authorisation to establish a bank is submitted by more than 10 founders, these shall be required to empower 1-3 persons as their attorneys, who shall represent them in front of the Polish Financial Supervision Authority during the period preceding the grant of authorisation to establish a bank. Power of attorney should be drawn up in the form of a notarial deed.

Article 32

1. The initial capital provided by the bank's founders shall be no less than the zloty equivalent of EUR 5,000,000, converted at the mid-rate published by Narodowy Bank Polski and ruling on the day the authorisation to establish the bank is granted, subject to the provisions of para. 2 herein.
2. In the case of cooperative banks, the founders of which have expressed their intention to conclude an affiliation agreement pursuant to the Act on the Operations of Cooperative Banks, their Affiliation and Affiliating Banks, the initial capital shall be no less than the zloty equivalent of EUR 1,000,000, converted at the mid-rate published by Narodowy Bank Polski and ruling on the day authorisation to establish the bank is granted.
3. The initial capital provided in the form of cash contributions must be deposited by the founders in Polish currency in an account at a domestic bank, opened for the purpose of making contributions to the bank's initial capital.
4. The initial capital of a bank incorporated as a joint-stock company or a cooperative bank should be paid up in full prior to the bank being entered in the appropriate register.
5. The contribution to the initial capital of a state bank, together with the assignment of other funds from the assets of the State Treasury to cover the initial capital, should be paid in prior to the state bank filing an application with the Polish Financial Supervision Authority for an authorisation to commence business.

Article 33

1. The Polish Financial Supervision Authority:
 - 1) shall call on the founders to supplement their application where it fails to satisfy the requirements set out in Art. 31, and may also call for other additional information or documents concerning, in particular, the founders and persons proposed for members of the bank's management board, including information on their financial and family situation, where such information is essential to make a decision on authorisation to establish the bank,
 - 2) shall pass a decision on the question of authorisation to establish the bank within no more than 3 months of receiving the application or additional information thereto.

2. In justified cases, the Polish Financial Supervision Authority may extend the time period, referred to in para. 1, subpara. 2, up to 6 months, advising the founders of this within 3 months of receiving the application or additional information thereto.

Article 34

1. In the authorisation to establish the bank, the Polish Financial Supervision Authority shall specify the bank's name, its registered office, names of the founders and the shares taken up by them, the amount of initial capital, the activity for which authorisation is being granted, and the conditions to be met for the Polish Financial Supervision Authority to authorise the bank to commence business, and shall also approve the bank's draft articles of association and the composition of the first management board of the bank.
2. Any amendment of the bank's articles of association shall require the authorisation from the Polish Financial Supervision Authority where such amendment relates to the matters referred to in Art. 31, para. 3 or to voting preference or limitation attached to shares at a bank incorporated as a joint-stock company, or at a cooperative bank which is a cooperative of legal persons, to a method of determining the members' voting rights other than that stipulated in the first sentence of Art. 36 § 3 of the Cooperatives Act.
- 2a. The authorisation concerning the amendment of the articles of association may specify the date by which the resolution should be adopted. If the resolution is not adopted by the specified date, the decision shall expire. The provision of Art. 162 § 3 of the Code of Administrative Proceedings shall not apply.
3. Art. 33 shall apply *mutatis mutandis* to applications for approval of amendments to the bank's articles of association.

Article 35

The Polish Financial Supervision Authority may participate in registration proceedings in respect of the banks.

Article 36

1. A bank may commence its business following receipt of an appropriate authorisation from the Polish Financial Supervision Authority.
2. The application for authorisation to commence business shall be submitted by the bank's management board.
3. An authorisation to commence the business may be issued where it is determined that the bank:
 - 1) is properly prepared in organisational terms to commence the business,
 - 2) has assembled the full amount of initial capital,
 - 3) is in possession of facilities suitable for the safekeeping of monetary funds and other valuables, taking into consideration the scope and kinds of banking activity to be conducted,

- 4) fulfils other conditions stipulated in the decision on granting the authorisation to establish the bank.
- 3a. The Polish Financial Supervision Authority shall notify the European Banking Authority of granting the authorisation referred to in para. 1 by including information on its contents.

Article 37

The Polish Financial Supervision Authority shall refuse authorisation to establish the bank or approval for amendment of its articles of association where the requirements in force for the establishment of banks have not been fulfilled, or where the activity intended by the

bank would contravene the provisions of law or prejudice the interests of its customers, or would not guarantee the safety of the funds held by the bank, or where the provisions of law in force in the place where the founder's registered office or residence is located, or their relations with other parties, could prevent the effective supervision of the bank.

Article 38

The authorisations referred to in Art. 34, para. 1 and Art. 36, para. 1 shall expire if the bank has not commenced its business within one year of the date the authorisation to establish the bank was granted.

Article 39

1. Subject to the provisions of Articles 48a-48g, the establishment of a bank abroad by a domestic bank, and the establishment of a branch of a domestic bank abroad, shall require authorisation from the Polish Financial Supervision Authority.
2. The application for establishment of a bank abroad should include:
 - 1) the bank's name, registered office and organisational form,
 - 2) information on the bank's founders and initial capital.
3. The application shall have appended thereto:
 - 1) a draft of the articles of association and reasons for the establishment of a bank abroad,
 - 2) the bank's programme of operations and financial plan for at least the immediate 3 years,
 - 3) information on the legal regulations in force in the country of establishment with respect to:
 - a) authorisations to assume activities by a bank,
 - b) tax regulations applicable to the banks activities,
 - c) regulations on the transfer of foreign exchange and on banking supervision.
4. An application for establishment of a branch of a bank abroad should include reasons for the establishment of a branch of the bank abroad and the information specified in para. 3, subpara. 3, as applicable to branches of banks.

Article 40

1. The establishment of a branch of a foreign bank in Poland shall take place on the basis of an authorisation granted by the Polish Financial Supervision Authority and issued after consultations with the minister competent for financial institutions, following an application from the bank concerned.
2. The application referred to in para. 1 should include:
 - 1) the business name and registered office of the applicant bank and a description of its activities,
 - 2) specification of the types of banking operations for the execution of which the bank's branch is to be authorised and the registered office of the branch,
 - 3) the amount of funds which the branch has been endowed with,
 - 4) information on at least 2 persons proposed for the posts of branch manager or deputy manager of the branch.
3. The application shall have appended thereto draft bye-laws of the branch and a commitment from the applicant foreign bank that it will satisfy all claims on the branch that may arise from its relations with other parties. Art. 31, para. 2 shall apply *mutatis mutandis*.
4. In the authorisation to establish a branch of a foreign bank in Poland, the Polish Financial Supervision Authority shall specify, in particular, the registered office of the branch, the banking operations for which authorisation is being granted to the branch, the minimum amount of funds required for the activity of the branch, as well as approve the draft bye-laws of the branch.
5. Branches of foreign banks shall be subject to entry in the business register.
6. The provisions of Articles 32-38 shall apply *mutatis mutandis* to procedures for establishing a branch of a foreign bank in Poland.
7. A branch of a foreign bank shall operate pursuant to the bye-laws issued by the foreign bank.
8. Any amendment of the bye-laws referred to in para. 7 shall require the authorisation by the Polish Financial Supervision Authority.
9. The provisions of Art. 34, paras. 2, 2a and 3 shall apply *mutatis mutandis* to the application for authorisation to amend the bye-laws.
10. The application referred to in para. 9 shall be filed by the foreign bank.

Article 40a

1. A branch of a foreign bank shall be required to:
 - 1) use the business name of that foreign bank in the language of the country where it has its registered office, together with a designation of the legal status of the bank translated into Polish, supplemented with the words "*oddział w Polsce*" ["branch in Poland"],
 - 2) maintain separate accounts in the Polish language, in accordance with the regulations binding on Polish banks,
 - 3) operate pursuant to the approved bye-laws,
 - 4) store all documents concerning its activities at the registered office of the branch.

- 1a. A branch of a foreign bank other than an undertaking subject to the obligatory guarantee system as understood under Article 2 para. 3 of the Act of 14 December 1994 on the Bank Guarantee Fund shall inform, in the manner that is used for informing about the provision of services, persons using or interested in using its services, about:
 - 1) its economic and financial situation,
 - 2) participation in the guarantee system and principles in respect of the functioning thereof, including the scope of protection granted by the system, in particular indicating:
 - a) the amount specifying the maximum level of guarantee,
 - b) the types of undertakings which may be entitled to receive benefits.
- 1b. A branch of the foreign bank referred to in para 1a must inform users and persons interested in using its services about lack of blanket guarantees in the case where:
 - 1) liability arising in connection with the performance of banking operations will not be protected by the guarantee system;
 - 2) a branch of a foreign bank issues a registered document confirming its monetary obligation relating to performance of an activity other than banking operation;
 - 3) claims of a person using or interested in using its services against another entity which is not subject to the guarantee system arise or may arise in connection with services provided by a branch of a foreign bank, consisting in particular in acting as a broker in negotiating the conclusion of agreements.
- 1c. Information, referred to in paras. 1a subpara. 2 and para. 1b subparagraphs. 1 and 2, should be also included in the agreements concluded between the persons using or interested in using bank branch services and the branch of the foreign bank.
- 1d. Information on the procedure and conditions for receiving monetary benefit should be made available at the request of a person using or interested in using services provided by a branch of a foreign bank.
- 1e. Any information made available to persons using or interested in using services provided by a branch of a foreign bank, pursuant to the provisions of paras. 1a-1c, should be provided:
 - 1) in the same manner which is used for informing about the provision of services,
 - 2) in a clear and understandable manner.
- 1f. Information about the participation in the guarantee system shall not be used for advertising purposes and should be limited solely to information referred to in paras. 1a and 1b.
- 1g. The prohibition specified in the para. 1f also applies to undertakings which do not participate in the guarantee system.
2. The manager and one deputy manager of a branch of a foreign bank shall be appointed with the consent of the Polish Financial Supervision Authority. The application for such consent shall be filed by the foreign bank. The provisions of Art. 22b shall apply *mutatis mutandis*.

Article 41

Branches of foreign banks operating in the Republic of Poland shall be governed by the provisions of Polish law.

Article 42

1. Foreign banks and credit institutions may open their representative offices in Poland pursuant to an authorisation granted by the Polish Financial Supervision Authority and issued after consultations with the minister competent for financial institutions, following an application from the bank or credit institution concerned.
2. The application referred to in para. 1 should include:
 - 1) the business name and registered office of the bank or credit institution, and a description of activities carried out by the bank or the applicant credit institution,
 - 2) the location of the representative office and its scope of activity,
 - 3) information on the person proposed for the post of representative of the bank or credit institution.
3. The provisions of Art. 33, Art. 37 and Art. 38 shall apply *mutatis mutandis* to procedures related to the opening of a bank's or credit institution's representative office.
4. The scope of activities of a representative office of a foreign bank and credit institution shall be limited to activities consisting in advertising and promoting the foreign bank or credit institution as stipulated in the authorisation.
5. The Polish Financial Supervision Authority shall publish a list of issued, repealed and expired authorisations referred to in para. 1 in the *Biuletyn Informacji Publicznej* [Public Information Bulletin].
6. A foreign bank and a credit institution shall be required to submit to the Polish Financial Supervision Authority :
 - 1) any amendments of factual and legal circumstances regarding the data referred to in para. 2,
 - 2) information that they have ceased to carry out activity in the form of a representative office in the Republic of Poland.
7. After consultations with the minister competent for financial institutions ,the Polish Financial Supervision Authority shall revoke the authorisation referred to in para. 1, where:
 - 1) the foreign bank or credit institution is in serious breach of the Polish law or fails to perform the commitment referred to in para. 6,
 - 2) liquidation proceedings have been opened against the foreign bank or credit institution or the foreign bank no longer retains the right to carry out business activity,
 - 3) activities of the foreign bank's representative office or activities of the credit institution grossly exceed the scope specified in the authorisation,
 - 4) the competent supervisory authority of the country where the foreign bank or credit institution has its registered office or the place where its management is

exercised have revoked authorisation for that bank or credit institution to conduct banking activities.

8. The authorisation referred to in para.1 shall expire if a foreign bank or a credit institution ceases to carry out activities as a representative office in the Republic of Poland. The Polish Financial Supervision Authority shall acknowledge the expiry of the authorisation by decision.

Da. Specific manner of establishing domestic banks by credit institutions carrying out business in the Republic of Poland via a branch

Article 42a

1. A credit institution carrying out banking activities in the Republic of Poland via a branch may establish a domestic bank in the form of a joint-stock company by providing, as in-kind contribution, all assets of this branch intended for carrying out activities by this branch, provided that they constitute an enterprise or an organised part thereof. Shares of a domestic bank may be acquired solely by this credit institution.
2. Subject to Art. 42b-42e, the provisions for establishing a bank as joint-stock company, with the exclusion of Art. 30, subparas. 2 and 4 and Art. 36, shall apply to establishing a domestic bank referred to in para.1 by a credit institution.
3. The consent referred to in Art. 313 paras.1-3 of the Commercial Companies Code shall also apply to the transfer of all assets of the branch to a domestic bank.

Article 42b

In addition to the documents referred to in Art.31, subpara. 2, the application for authorisation to establish a domestic bank by a credit institution referred to in Art. 42a, subpara. 1 shall be appended with:

- 1) verified by an entity entitled to audit financial statements:
 - a) determination of the branch asset value as at a specified date of the month preceding the submission of the application for establishing a domestic bank, in accordance with the existing accounting principles adopted by this branch, without recognizing additional components in the assets or amending the principles for preparing estimates affecting the valuation of assets and liabilities,
 - b) a statement comprising information on the accounts of the branch drawn up for the purpose of establishing a domestic bank as at the date referred to in point a) providing that the value of in-kind contribution corresponds to the balance-sheet value of the enterprise or the organised part thereof, valued in accordance with the existing accounting principles adopted by the branch of the credit institution,
- 2) a certified copy of the notice regarding the intention to cease activities by the branch in the Republic of Poland, communicated through the competent supervisory authority of the home state,
- 3) information on authorisations, concessions and reliefs that have been granted to the credit institution in connection with the establishment of a branch or its activity,

together with a certified copy of the notice from a body, other than the Polish Financial Supervision Authority, which has issued the authorisation or granted the concession, notifying of the intention to establish a domestic bank and the possibility of submitting an objection referred to in Art. 42e, para. 2, subpara. 3.

Article 42c

1. Prior to issuing a decision concerning the authorisation to establish a domestic bank referred to in Art. 42a, para.1, examination actions shall be carried out at the branch of the credit institution. The provisions of Art. 133, paras. 2-4, Art. 135 and Art. 136 shall apply *mutatis mutandis* to the examination.
2. The Polish Financial Supervision Authority shall refuse to issue the authorisation to establish a domestic bank referred to in Art. 42a, para.1 where it may cause a substantial loss for the national economy or for the important interest of the State.

Article 42d

The authorisation to establish a domestic bank referred to in Art. 42a, para.1 shall cease to have effect when the bank has not been registered in the business register within one year from the delivery of the authorisation. The Polish Financial Supervision Authority may set a shorter time-limit in the authorisation– not less than 6 months –when the authorisation ceases to have effect provided that it is justified by the requirement of sound and prudent performance of activities by the bank to be established.

Article 42e

1. A domestic bank established by a credit institution under Art. 42a, para. 1 shall commence its activities upon its entry in the business register. The branch of a credit institution shall be deleted from the business register *ex officio* on the day when the domestic bank is entered in the business register.
2. On its entry in the business register, the domestic bank referred to in para. 1 shall take over all rights and obligations of the credit institution related to the branch operations. The authorisations, concessions and reliefs granted to the credit institution in connection with the establishment of the branch or its activity under provisions of laws applicable in the Republic of Poland shall be transferred to the domestic bank, provided that:
 - 1) information referred to in Art. 42b, subpara. 3 has been disclosed ,
 - 2) separate provisions or decision on granting the authorisation, concession or relief do not provide otherwise,
 - 3) before the authorisation to establish a domestic bank is issued, any other body that issued the authorisation or granted the concession has not submitted an objection.
3. Disclosure in the land registers or other registers of the transfer of the rights disclosed in such land registers or other registers to the domestic bank shall be effected upon application of the bank.

4. Monetary funds transferred by the credit institution in order to carry out activities by the branch shall not constitute the domestic bank's liabilities.
5. The provisions of the Accounting Act of 29 September 1994 (Journal of Laws of 2013, item 330, as amended) regarding the modification of the legal status of an entity shall be applied in the case of establishing the domestic bank referred to in para 1.
6. A company in organization that is to become the bank referred to in para.1 may apply to the Polish Financial Supervision Authority for authorisations referred to in Art. 6a, para. 1, subpara. 1, point k) and Art. 6d, para. 1, if such authorisations are required at the time of the bank's entry in the business register.

Article 42f

1. A domestic bank established under Art. 42a, para. 1 is required to maintain its solvency ratio at no less than 12% for the first 18 months of operations. Article 128, para. 1, subpara. 3 shall not apply.
2. No limit on the size of non-cash contributions in the bank's principal funds, specified in Art. 128, para.1, shall apply to the own funds of the domestic bank referred to in para. 1, created by providing the initial capital.

E. Transformation of a state bank into a joint-stock company

Article 43

A state bank may be transformed into a bank incorporated as a joint-stock company.

Article 44

The Council of Ministers, at the request of the minister competent for the State Treasury matters and having sought the opinion of the Polish Financial Supervision Authority, shall, by regulation:

- 1) transform state banks into joint-stock companies involving State Treasury equity,
- 2) determine to what extent the assets of the state bank concerned shall be contributed to the joint-stock company as a contribution for equity, and to what extent these shall be sold to the joint-stock company being set up with State Treasury involvement.

Article 45

The transformation of a state bank into a joint-stock company shall not result in any changes to the scope of agreements concluded by the bank or powers vested in it under administrative rulings. The transformation of the bank shall be conducted on the basis of a balance sheet drawn up as of the date of transformation. As of that date, the bank incorporated as a joint-stock company shall assume all the rights and obligations of the state bank.

Article 46

On the day on which the bank incorporated as a joint-stock company obtains the status of a legal person, the state bank shall be liquidated and its management bodies dissolved.

Article 47

With respect to matters not regulated by the present Act, the transformation of a state bank into a bank incorporated as joint-stock company shall be governed by the procedure laid down in the Commercial Companies Code for the formation of a joint-stock company, with the exception of Art. 312 and Art. 336.

Article 48

The disposal to third parties of shares held by the State Treasury in a bank transformed from a state bank shall be governed by the relevant provisions of Chapters IV and V of the Act of 30 August 1996 on the Commercialisation and Privatisation of State Enterprises (Journal of Laws of 2013, item 216, as amended).

CHAPTER 2A**TAKING UP AND PURSUIT OF BUSINESS
BY DOMESTIC BANKS IN HOST MEMBER STATES
AND BY CREDIT INSTITUTIONS IN THE REPUBLIC
OF POLAND****Article 48a**

A domestic bank may pursue business in a host Member State via a branch or within the framework of the cross-border activity.

Article 48b

In the host Member State, a domestic bank may perform the operations deriving from the authorisation referred to in Art. 34, para. 1.

Article 48c

1. A domestic bank that intends to establish a branch in a host Member State shall give a written notification of this fact to the Polish Financial Supervision Authority.
2. The notification referred to in para. 1 should include:
 - 1) the name of the host Member State in which the bank intends to establish the branch,
 - 2) the name of the branch,
 - 3) the address of the branch at which documentation concerning its activity shall be obtainable,
 - 4) a programme of operations for the branch, specifying, in particular, the operations which the bank intends to perform via the branch, together with a description of the organisational structure of the branch,
 - 5) the names of the persons proposed for the posts of branch manager and deputy manager.

3. The Polish Financial Supervision Authority may require that the notification referred to in para. 1 be supplemented as regards the information specified in para. 2, subparas. 2-5 therein.
4. Within 3 months of receiving the notification referred to in para. 1 or supplementary information thereto, the Polish Financial Supervision Authority shall send a notification to the competent supervisory authorities of the host Member State together with information on the level of the own funds and the capital solvency ratio of the bank intending to establish the branch. The Polish Financial Supervision Authority shall advise the bank concerned of sending the notification to the competent supervisory authorities.

Article 48d

1. The Polish Financial Supervision Authority shall refuse to send the notification referred to in Art. 48c, para. 1, where:
 - 1) the requirements laid down in Art. 48c, para. 2, have not been fulfilled,
 - 2) the organisational structure or financial situation of the bank are inadequate in terms of the business envisaged,
 - 3) the business envisaged would contravene provisions of law,
 - 4) the business envisaged could prove detrimental to the sound and prudent management of the bank.
2. The Polish Financial Supervision Authority shall communicate its refusal to the bank concerned within three months of receiving the notification or supplementary information thereto.
3. The Polish Financial Supervision Authority shall notify the European Banking Authority of each case when it issues a decision on refusal and shall provide conditions for issuing such decision.

Article 48e

Where a domestic bank intends to change any of the particulars indicated in Art. 48c, para.2, subparas. 2-5, it shall give a written notification to the Polish Financial Supervision Authority and the competent supervisory authorities of the host Member State no later than 1 month prior to such a change. The provisions of Art. 48c, paras. 3 and 4, and of Art. 48d shall apply *mutatis mutandis*.

Article 48f

1. A domestic bank intending to carry out cross-border activity shall provide notification of this fact to the Polish Financial Supervision Authority. The notification should in each case indicate the operations deriving from the authorisation granted to the bank, which it intends to perform.
2. The Polish Financial Supervision Authority shall communicate the notification referred to in para. 1 to the competent supervisory authorities of the host Member State within 1 month of receipt and shall advise the bank concerned of this.

Article 48g

The Polish Financial Supervision Authority shall immediately notify the competent supervisory authorities of the host Member State of the loss of authorisation to establish the bank by a domestic bank pursuing its business in that Member State.

Article 48h

1. A financial institution having its registered office in the Republic of Poland may perform the operations referred to in Art. 5, para.2, and Art. 6, para. 1 subparas. 1–4, 6, 7 and 8 in a host Member State, in the scope specified in the founding deed, doing so via a branch or within the framework of cross-border activity, provided that:
 - 1) it is the subsidiary undertaking of at least 1 domestic bank subject to consolidated supervision,
 - 2) it is itself subject to consolidated supervision,
 - 3) it actually pursues business in the Republic of Poland,
 - 4) the domestic bank or banks referred to in subpara. 1 are entitled to exercise 90% or more of the voting rights in the decision-making body of the given financial institution,
 - 5) the domestic bank or banks referred to in subpara. 1 fulfil the requirements laid down in the present Act concerning their own funds, capital solvency ratio, exposure concentration, liquidity and market risk,
 - 6) the domestic bank or banks referred to in subpara. 1 shall submit a guarantee of their joint and several liability for the commitments entered into by the given financial institution, having first obtained approval for this from the Polish Financial Supervision Authority.
2. Compliance with the conditions specified in para. 1 shall be subject to verification by the Polish Financial Supervision Authority.
- 2a. Where a financial institution complies with the conditions referred to in para. 1, the Polish Financial Supervision Authority shall issue a certificate to that financial institution attesting to its compliance with those conditions.
3. The financial institution shall provide a written notification to the Polish Financial Supervision Authority of its intention to establish a branch or carry out cross-border activity in the host Member State. The provisions of Art. 48c, paras. 2-4, and Articles 48d-48f shall apply *mutatis mutandis*, with the proviso that the Polish Financial Supervision Authority:
 - 1) shall notify the competent supervisory authorities of the host Member State of the level of own funds of the subsidiary financial institution and of the consolidated capital solvency ratio of the parent bank or banks referred to in para. 1, subpara. 1,
 - 1a) shall attach to the notification the certificate referred to in para. 2a,
 - 2) shall also refuse to send the notification to the competent supervisory authorities should the financial institution fail to comply with the conditions referred to in para. 1.
4. Should the financial institution cease to comply with the conditions referred to in para. 1, the Polish Financial Supervision Authority shall notify the competent supervisory

authorities of this. As of the moment of notification, the business pursued by the said institution in the host Member State shall be governed by the legislation of the host Member State.

5. The Polish Financial Supervision Authority may, at the request of the competent supervisory authorities of the host Member State, apply the measures stipulated in Art. 138, para. 3, subparas. 1, 2 and 3a, and Art. 141 to the financial institution referred to in para. 1, or prohibit the said institution from pursuing business in the host Member State.

Article 48i

A credit institution may pursue business in the Republic of Poland via a branch or within the framework of its cross-border activity.

Article 48j

A credit institution may perform in the Republic of Poland the operations specified in Art. 5, paras. 1 and 2, and Art. 6, para. 1 subparas. 1-4 and 6-8, in the scope that derives from the authorisation granted to it by the competent supervisory authorities of the home Member State.

Article 48k

1. The activity of credit institutions in the Republic of Poland shall be governed by the provisions of Polish law, subject to the provisions of paras. 2 and 3 herein.
2. The provisions of Articles 1-11, Art. 40a, para. 1, Articles 49-70, Articles 73-78a, Articles 80-98, Articles 101-112, Art. 124, Art. 124a, Art. 133, para. 2, subpara. 1, and para. 3, Art. 137, Art. 138, para. 1, subpara. 1, para. 2 and para. 3, subparas. 1, 3 and 3a, Art. 139, para. 1, subparas. 2 and 3, Art. 141 and Art. 171, paras. 4-7 shall apply *mutatis mutandis* to branches of credit institutions.
3. In relation to the monetary policy pursued by Narodowy Bank Polski, branches of credit institutions shall have the same rights and obligations as domestic banks and branches of foreign banks until the date on which the Republic of Poland accedes to the Economic and Monetary Union.

Article 48l

1. Subject to the provisions of para. 2 herein, a branch of a credit institution may commence its business in the Republic of Poland no earlier than 2 months from the Polish Financial Supervision Authority receiving the following information from the competent supervisory authorities of the home Member State:
 - 1) the name of the branch in the Republic of Poland and address at which documentation concerning its activity shall be obtainable,
 - 2) a programme of operations specifying, in particular, the operations which the credit institution intends to perform, together with a description of the organisational structure of the branch,

- 3) the names of the persons proposed for the posts of branch manager and deputy manager,
 - 4) the level of the credit institution's own funds and capital solvency ratio.
2. Within 2 months of receiving the information referred to in para. 1, the Polish Financial Supervision Authority may indicate conditions which, in the interest of the general good, the branch of the credit institution must fulfil while pursuing business in the Republic of Poland, in particular with a view to consumer protection, ensuring the safety of trading, or preventing contraventions of law.
3. Where a credit institution intends to change any of the particulars referred to in para. 1, subparas. 1-3, it shall notify the Polish Financial Supervision Authority no later than 1 month prior to such a change. Such changes shall become binding as of the date of the receipt by the Polish Financial Supervision Authority of the appropriate notification from the competent supervisory authorities of the home Member State. The provisions of para. 2 shall apply *mutatis mutandis*.

Art. 48l

A credit institution may commence cross-border activity in the Republic of Poland on receipt by the Polish Financial Supervision Authority of notification from the competent supervisory authorities of the home Member State specifying the operations which that institution intends to perform.

Article 48m

A branch of a credit institution pursuing business in the Republic of Poland shall be required to file periodic reports on its activity to Narodowy Bank Polski in accordance with the scope of information and procedure established pursuant to Art. 23, para. 3 and 4, of the Act of 29 August 1997 on Narodowy Bank Polski (Journal of Laws of 2013, item 908 and 1036).

Article 48n

The provisions of Articles 48l and 48l shall apply *mutatis mutandis* to financial institutions having their registered offices in Member States that fulfil the requirements stipulated in Art. 48h, para. 1.

Article 48o

1. A credit institution pursuing business in the Republic of Poland shall advise, in the manner that is used for informing about the provision of services, persons using and interested in using its services about:
 - 1) its economic and financial situation,
 - 2) participating in the guarantee system and the principles of functioning thereof, including the scope of protection provided by the system, in particular:
 - a) the amount specifying the maximum level of guarantee,
 - b) types of entities which may be recognized as being entitled to receive a monetary benefit.

2. A credit institution pursuing business in the Republic of Poland is obliged to inform persons already using and interested in using its services about lack of guarantee protection in the case where:
 - 1) a claim arising in connection with the performance of banking operations will not be protected by the guarantee system;
 - 2) a credit institution shall issue a registered document confirming its monetary obligation in connection with performance of an activity other than a banking operation,;
 - 3) any claims of persons using or interested in using its services against another entity which is not subject to the guarantee system arise or may arise in connection with services provided by a credit institution consisting in particular in acting as an agent negotiating the conclusion of agreements.
3. Information referred to in paras. 1 subpara. 2 and para. 2 subparas. 1 and 2 should be also included in agreements concluded between a credit institution and the persons using or interested in using its services.
4. Information on the procedure and conditions for receiving a monetary benefit should be made available at the request of a person using or interested in using services provided by the credit institution.
5. Any information made available to persons using or interested in using services provided by the credit institution, pursuant to the provisions of paras. 1–3, should be provided:
 - 1) in the same manner which is used for informing about the provision of services,
 - 2) in a clear and understandable manner.
6. Information about the participation in the guarantee system shall not be used for advertising purposes and should be limited solely to the information referred to in paras. 1 and 2.
7. Prohibition specified in item 6 also applies to entities which do not participate in the guarantee system.

CHAPTER 3

BANK ACCOUNTS

Article 49

1. Banks may, in particular, operate the following types of bank accounts:
 - 1) clearing accounts including current and auxiliary accounts,
 - 2) time deposit accounts,
 - 3) savings accounts, personal accounts and time deposit savings accounts,
 - 4) trust accounts.
2. Clearing accounts and time deposit accounts may be operated solely for:
 - 1) legal persons,
 - 2) organisations without legal personality yet having legal capacity,

- 3) natural persons engaged in gainful activity on their own behalf, including entrepreneurs.
3. Savings accounts, personal accounts and time deposit savings accounts may be operated solely for:
 - 1) natural persons,
 - 2) school savings associations,
 - 3) employees' social benefits and loans schemes.

Article 50

1. The holder of a bank account shall be free to dispose of the funds held on account. The account agreement which the account holder concludes with the bank may contain provisions restricting the freedom to dispose of such funds.
2. The bank shall exercise due diligence with regard to ensuring the safety of funds held.

Article 51

A bank account may be operated for several natural persons or several units of territorial local government or for parties of a cooperation agreement within the meaning of the Act of 9 June 2011 Geological and Mining Law (Journal of Laws of 2014, item 613, as amended 24) – a joint account.

Article 51a

Unless the bank account agreement stipulates otherwise, where a joint account is operated for natural persons:

- 1) each account co-holder may individually dispose of the funds held on account,
- 2) each account co-holder may give notification of termination of the agreement at any time with effect for the remaining co-holders.

Article 51b

1. A joint account for the units of territorial local government may be operated solely in connection with the joint performance of public tasks, including the implementation of projects co-financed from EU funds.
2. The joint account agreement for an account operated for units of territorial local government shall stipulate the objective of operating the account.
3. The rules of disposing of funds held on a joint account operated for units of territorial local government and the rules of giving notification of termination of the account agreement shall be stipulated by the bank account agreement.

Article 51c

1. A joint account for parties of a cooperation agreement may be operated solely in connection with the performance of a cooperation agreement and a granted concession defined in the Act of 9 June 2011 Geological and Mining Law.
2. In the case of a joint account for parties of a cooperation agreement:

- 1) authorised to dispose of funds held on the account is solely an account co-holder who is an operator as understood under the Act of 9 June 2011 Geological and Mining Law,
- 2) an account co-holder may request current information concerning the balance on the account, periodic bank statements and the history of the account and subaccounts.

Article 52

1. A bank account agreement shall be concluded in writing.
2. A bank account agreement should specify, in particular:
 - 1) the parties to the agreement,
 - 2) the kind of account being opened,
 - 3) the currency in which the account is to be operated,
 - 4) the duration of the agreement,
 - 5) where the parties stipulate that the funds held on the account shall bear interest – the rate of such interest and the conditions upon which the bank may change it, as well as the dates for payment, making funds available or capitalisation of interest,
 - 6) the fees and commissions payable for services related to the performance of the agreement, and the conditions and procedure for changing them by the bank,
 - 7) the forms and scope of monetary settlements performed at the request of the account holder and the time limits for their performance,
 - 8) the conditions and procedure for amending the agreement,
 - 9) the conditions and procedure for terminating the bank account agreement,
 - 10) the extent of the bank's liability for timely and proper performance of monetary settlements, and the compensation payable in the event of failure to perform an account holder's instruction within the agreed time.
3. For the purpose of calculating interest due on funds held on account, a year is assumed to consist of 365 days, unless otherwise provided in the agreement.
4. The provisions of paras. 1 and 2 shall not apply to an agreement concerning bank account serving as a payment account referred to in Art. 2, item 25 of the Act of 19 August 2011 on Payment Services.

Article 53

1. A bank may issue to a holder of a savings account or a holder of a time deposit savings account a passbook made out in the holder's name or other document made out in the holder's name attesting to conclusion of the agreement. The name of the document should contain the appropriate case form of the word "*oszczędnościowy*" ["savings"].
2. The issuance of the document referred to in para. 1 shall relieve the bank from the obligation to send to the account holder statements of that account.
3. Where a document referred to in para. 1 is lost, it shall be annulled.
4. The Minister of Justice, having sought the opinion of the Polish Financial Supervision Authority, shall specify by regulation the detailed conditions and procedure

applicable to the annulment of documents referred to in para. 1, taking into account the nature of those documents and the legitimate interests of account holders.

Article 54

1. The funds held on savings accounts, personal accounts and on time deposit savings accounts belonging to one person, irrespective of the number of account agreements concluded by that person, shall be free from seizure under a court or administrative collection order up to the equivalent of three times the average monthly salary in the corporate sector, exclusive of profit-sharing bonuses, as reported by the President of the Central Statistical Office in relation to the period directly preceding the day on which the said order is issued.
2. The funds held on a savings account, personal account and on a time deposit savings account operated for several natural persons shall be free from seizure up to the amount specified in para. 1, irrespective of the number of co-holders of such an account.

Article 55

1. In the event of the death of a holder of a savings account, personal account or time deposit savings account, the bank shall be required to pay out from such accounts:
 - 1) the sum spent on the account holder's funeral expenses, this being payable to the person presenting invoices attesting to the expense this person has incurred in this respect, with this sum being no greater than the expense of funerals held in accordance with accepted custom in the given community,
 - 2) a sum equal to the amount of cash payments to accounts made by institutions disbursing insurance or social security benefits or other retirement benefits that were not due after the death of the account holder, specified in the application of the institution disbursing the benefit or pension submitted to the bank together with the numbers of accounts to which the payments were made.
2. The amount paid out pursuant to para. 1, subpara. 1 shall not be included in the estate of the deceased account holder.
3. A bank shall be released from the requirement to pay out the entire amount referred to in para. 1, subpara. 2, or part thereof, where it made payments to other authorised parties before the receipt of the application from the institution disbursing the benefit or pension and those payments prevent the application from being accepted in full or in part, and it advises the said institution to this effect within 30 days of the receipt of the application, indicating the parties who collected the payments.
4. A bank shall not be liable for the damage resulting from the performance of the acts referred to in para. 1, subpara. 2 and para. 3. The liability for the said damage shall be borne by the institution disbursing the benefit or pension that has submitted the application.

Article 56

1. A holder of a savings account, personal account or time deposit savings account may instruct a bank in writing to pay out a specified sum from the account to parties indicated by the said holder: a spouse, ascendants, descendants or siblings after his death (instruction concerning the deposit in the event of death).
2. The sum of payment referred to in para. 1, irrespective of the number of instructions issued, shall not be greater than twenty times the average monthly salary in the corporate sector, exclusive of profit-sharing bonuses, as reported by the President of the Central Statistical Office in relation to the last month prior to the death of the account holder.
3. The instruction concerning the deposit in the event of death may be amended or revoked in writing by the account holder at any time.
4. Where the account holder has issued more than one instruction concerning the deposit in the event of death and the sum total indicated in the instructions exceeds the limit referred to in para. 2, instructions issued later shall take precedence over those issued earlier.
5. The amount paid out pursuant to para. 1 shall not be included in the estate of the deceased account holder.
6. Parties to whom sums have been paid out pursuant to instructions concerning the deposit in the event of death in breach of para. 4 shall be required to return them to the heirs of the account holder.

Article 57

The provisions of Art. 55, para. 1 and Art. 56, para. 1 shall not apply to the account referred to in Art. 51.

Article 58

A minor holder of a savings account, personal account or time deposit savings account on reaching 13 years of age shall be free to dispose of the funds held in those accounts, provided that no written objection to this is received from the minor's statutory guardian.

Article 59

1. Only funds entrusted to the account holder by a third party — pursuant to a separate agreement — may be held on trust accounts.
2. A bank and an account holder (trustee) shall be parties to a trust account agreement.
3. The agreement referred to in para. 2 shall stipulate the conditions that should be met so that funds belonging to third parties deposited in the account may be paid out to the account holder or so that the instructions of the account holder concerning the use of said funds may be executed.
4. Where enforcement proceedings are instituted against a holder of a trust account, the funds held in the account shall not be subject to seizure.
5. Where a holder of a trust account is declared bankrupt, the funds held in that account shall be excluded from the bankruptcy estate.

6. In the event of the death of a holder of a trust account, the funds held in that account shall not be included in the estate of the deceased account holder.
7. The provisions of paras. 3–6 shall apply where the funds were entrusted in performance of the agreement referred to in para. 1, with a certified date.

Article 60

Where a bank account agreement does not provide otherwise, the agreement shall be terminated where no operations have been performed on the account save for accrual of interest for a period of 2 years, and where the balance on the account is no greater than the minimum balance specified in the agreement.

Article 61

1. Where a bank is notified of the loss of documentary evidence of conclusion of a savings account agreement, or of a cheque, whether or not filled out, the account holder is not held liable for any cash withdrawals or transfers executed on the basis of said documents at the bank operating the savings account as of the moment the bank receives such a notification.
2. In cases other than those referred to in para. 1, the principles of charging the account holder for cash withdrawals performed by the bank after the loss of documents referred to in para. 1 by the account holder shall be stipulated by the bank account agreement.

Article 62

The annulment of lost documents attesting to the conclusion of a savings account, personal account or time deposit savings account agreement in the course of the enforced collection of funds from a savings account, personal account or time deposit savings account under a court or administrative collection order shall be governed by the provisions of the Code of Civil Proceedings of 17 November 1964 (Journal of Laws 2014, item 101, as amended) and by regulations on administrative enforcement proceedings.

CHAPTER 4

MONETARY SETTLEMENTS PERFORMED VIA BANKS

Article 63

1. Monetary settlements may be performed through the offices of banks provided that at least 1 party to the settlement (the debtor or creditor) holds a bank account. Monetary settlements shall be performed in cash, or on a non-cash basis, by means of paper or electronic media.
2. Cash settlements shall be performed by open cheque or by cash deposit to the account of the creditor.
3. Non-cash settlements shall be performed, in particular, by:
 - 1) transfer order,

- 2) direct debit,
- 3) giro cheque,
- 4) payment card.

Article 63a (repealed).

Article 63b

1. An open cheque shall constitute an instruction from the drawer of the cheque to the drawee to debit the former's account with the amount for which the cheque has been made out, and to pay this amount to the bearer of the cheque or to the person indicated on it.
2. An open cheque may be presented for payment directly to the drawee or at another bank. Subject to the provision of para. 3, payment of an open cheque presented for payment at another bank shall be effected once that bank has obtained sufficient funds from the drawee to cover payment of the cheque. The detailed conditions for the presentation of an open cheque for payment at another bank shall be specified in an agreement between that bank and the holder of the cheque.
3. Banks shall be entitled to conclude agreements providing, on a reciprocal basis, for the application of a procedure other than that specified in para. 2 to the presentation of open cheques for payment from personal accounts.

Article 63c

A transfer order shall constitute an instruction to a bank from a debtor to debit his/her account with a specified amount and credit the account of the creditor with that sum. The bank shall execute the debtor's instruction in the manner provided for under the bank account agreement.

Article 63d

1. A direct debit shall constitute an instruction to a bank from a creditor to debit the bank account of a debtor with a specified amount and credit the account of the creditor with that sum. The instruction from the creditor shall at the same time signify his/her consent to the debtor's bank reversing the debit to the debtor's account and reversing the credit to the creditor's account should the debtor cancel the direct debit, as referred to in para. 6 herein.
2. The performance of settlements by direct debit shall be permissible under the following conditions:
 - 1) that the creditor and debtor hold accounts at banks that have concluded an agreement on the use of direct debits, this specifying, in particular: the extent of the liability of the banks executing direct debit, the admissible reasons for the debtor's bank refusing to execute direct debit, procedures for pursuing the reciprocal claims of banks resulting from cancellation of a direct debit by a debtor, standardised specimen forms, and the principles governing the execution of direct debit by the banks using electronic media,

- 2) that the debtor consents to the creditor debiting the debtor's account using direct debits in settlement of specific obligations at contractual payment dates,
- 3) that the creditor concludes an agreement with the bank operating his/her account on the use of direct debits by the creditor, this specifying, in particular: the bank's consent to the use of direct debits by the creditor, the principles for submitting and executing direct debits, the consent of the creditor to his/her account being debited with the amounts of cancelled direct debits, together with the interest referred to in para. 7 herein, these amounts being refunded to the debtor due to the cancellation of direct debits, and the extent of the liability of the creditor and the bank,
- 4) that the maximum amount of a single direct debit be no greater than the zloty equivalent, converted at the mid-rate published by Narodowy Bank Polski and ruling on the last day of the quarter preceding the quarter when monetary settlement is performed, of:
 - a) EUR 1,000 — where the debtor is a natural person not engaged in business activity,
 - b) EUR 50,000 — in the case of other debtors.
3. A bank that has consented to a creditor using direct debits shall be liable to the banks that are parties to the agreement referred to in para. 2, subpara. 1, in respect of any actions taken by the creditor in relation to the use of direct debits, in particular being required to credit immediately the amount of a cancelled direct debit to the account of the debtor's bank, together with the interest referred to in para. 7 herein, this including cases where there are no funds on the creditor's account or the debiting of the creditor's account is prevented for some other reason.
4. The creditor's bank account shall be credited once his/her bank has obtained sufficient funds from the debtor's bank to cover the direct debit.
5. The debtor shall enjoy the right to withdraw, at any time, the consent referred to in para. 2, subpara. 2.
6. The debtor may cancel an individual direct debit at the bank operating his/her account within:
 - 1) 30 calendar days of the debiting of his/her bank account — where the debtor is a natural person not engaged in business activity,
 - 2) 5 business days of the debiting of their bank account — in the case of other debtors.
7. The cancellation of a direct debit by the debtor shall oblige the debtor's bank to credit immediately the debtor's bank account with the amount of the cancelled direct debit. The crediting of the debtor's account shall take place on the date the instruction cancelling the direct debit is submitted, with a requirement that the interest due to the debtor on his/her account be accrued as of the date the debtor's account was debited with the amount of the direct debit.
8. A bank that is a creditor may perform settlements by direct debit pursuant to the conditions specified in the present Act, with the proviso that:
 - 1) the provisions of para. 2, subpara. 3, and para. 3 shall not apply to such settlements,
 - 2) the bank shall be required to credit immediately the account of the debtor's bank with amount of the cancelled direct debit.

9. The provisions of paras. 1-8 shall not apply to transactions of direct debit to which the Act of 19 August 2011 on Payment Services applies.

Article 63e

1. A giro cheque shall constitute an instruction from the drawer of the cheque to the drawee to debit his/her account with the amount for which the cheque has been made out, and to credit this amount to the account of the holder of the cheque.
2. A bank may certify a giro cheque at the request of the drawer of the cheque, at the same time setting aside appropriate funds on the drawer's account to cover payment of that cheque. A bank may also certify a blank cheque.
3. A giro cheque may be presented for clearance equivalent to payment either directly to the drawee or at a bank where the holder of the cheque has an account. Subject to the provision of para. 4, the account of the holder of the cheque shall be credited with the amount of the cheque once the holder's bank has obtained sufficient funds from the drawee to cover payment of the cheque. The detailed conditions for the presentation of a cheque for clearance equivalent to payment at a bank other than the drawee's bank shall be specified in an agreement between that bank and the holder of the cheque.
4. Banks may conclude agreements where they determine, on a reciprocal basis, a procedure other than that specified in para. 3 for presenting for payment giro cheques drawn on personal accounts.

Article 63f

1. Parties to non-cash settlements may also use payment cards, pursuant to the conditions specified in agreements between them.
2. The rights and obligations of the issuer and holder of a payment card shall be laid down in a separate Act.

Article 63g (repealed).

Article 63h

The minister competent for financial institutions, having sought the opinion of the President of Narodowy Bank Polski, may specify, by regulation, a specimen form for transfer orders and cash payments to be used in monetary settlements performed through banks acting as intermediaries.

Article 64

1. Where account holder's instructions to make a monetary settlement are executed by several banks, each of these banks shall be jointly and severally liable to the account holder for any damage suffered due to non-performance or improper performance of the instructions.
2. The provisions of para. 1 shall not apply to payment services regulated by the Act of 19 August 2011 on Payment Services.

Article 65

In making payments from a bank account, the bank shall be required to verify the authenticity and formal correctness of the document serving as the basis for the payment and the identity of the person giving the payment instruction.

Article 66

Banks shall be required to accept cash payments to bank accounts, and to count and sort the notes and coin taken in such deposits.

Article 67

Banks, together with banking chambers of commerce, may establish clearing houses in the form of commercial companies in order to exchange payment orders and determine their mutual claims arising from such payment orders. To collateralise the performance of clearings, the clearing house may establish a guarantee fund, financed by contributions from the banks; the assets assigned to this fund shall not be liable to enforced collection on a bank's assets.

Article 67a

The funds held on a bank's clearing account as defined in the Act of 24 August 2001 on Settlement Finality in Payment and Securities Settlement Systems and the Principles of Supervision of those Systems (Journal of Laws of 2013, item 246 and 1036) shall be free from seizure under a court or administrative enforcement order up to the amount necessary to fulfil the obligations resulting from the bank's participation in a payment or securities settlement system which arose before the seizure.

Article 68

The President of Narodowy Bank Polski shall specify, by regulation:

- 1) the method of performing interbank clearings, including those conducted using electronic media,
- 2) the method and procedure to be used in counting, sorting, packaging and labelling packages of notes and coin, and in carrying out activities related to the supply of notes and coin to the banks,
- 3) the method of assigning sorting codes to the banks and organisational units thereof,
- 4) the method of numbering bank accounts operated at the banks.

CHAPTER 5**CREDITS, LOANS, AND RULES FOR LARGE EXPOSURES****Article 69**

1. Under a credit agreement, a bank shall undertake to make available to the borrower a certain amount of funds for a period stipulated in the agreement, these funds to be utilised for a specified purpose, while the borrower shall undertake to apply these funds in accordance with the conditions laid down in the agreement, to repay the outstanding balance of the loan together with interest at specific repayment dates and to pay a fee on the loan extended.
2. A credit agreement should be drawn up in writing and specify, in particular:
 - 1) the parties to the agreement,
 - 2) the amount and currency of the credit,
 - 3) the purpose for which the credit is being granted,
 - 4) the repayment date and terms,
 - 4a) in the case of an agreement concerning a credit denominated or indexed to a currency other than the Polish currency – the detailed rules for determining methods and dates for establishing the foreign currency exchange rate on the basis of which the amount of the credit, its tranches, principal and interest instalments are calculated, as well as the rules for its conversion into payment and repayment currency,
 - 5) the interest rate on the credit and the conditions on which this may be changed,
 - 6) the credit collateral to be provided,
 - 7) the bank's powers in monitoring credit use and repayment,
 - 8) the dates and method of disbursing funds to the borrower,
 - 9) the commission on credit if the agreement makes provision for such,
 - 10) the conditions applicable in amending or terminating the agreement.
3. In the case of an agreement concerning a credit denominated or indexed to a currency other than the Polish currency, the borrower may repay principal and interest instalments and make early repayment of the credit in whole or in part directly in this currency. In this case, the credit agreement shall also specify rules for opening and maintaining an account to accumulate funds allocated to repayment of the credit as well as for making a repayment through this account.

Article 70

1. A bank shall make the extension of a loan contingent on the borrower's creditworthiness. The creditworthiness shall be understood as the capacity to repay the loan taken, together with interest, at the dates specified in the agreement. The borrower shall be required to present, at the bank's request, such documents and information as are necessary to make an assessment of this capacity.
2. Where a natural or legal person, or organisational unit without legal personality yet having legal capacity, is not deemed creditworthy, a bank may extend a loan provided that:
 - 1) a special loan collateral is to be established,
 - 2) irrespective of the loan collateral, a financial recovery programme for the undertaking concerned, implementation of which will, in the bank's opinion,

ensure that the borrower becomes creditworthy within a given period of time is to be presented.

3. The borrower shall be required to facilitate measures taken by the bank to assess financial and economic situation and to monitor loan use and repayment.
4. The provision of para. 2 shall apply *mutatis mutandis* to the extension of a loan to a newly established business, legal person or organisational unit without legal personality yet having legal capacity.
5. A bank, upon a request of the entrepreneur applying for a loan, shall send a written justification concerning the performed credit rating. Fees for such justification should be proportional to the amount of loan.
6. The provision of para. 5 shall apply *mutatis mutandis* to the entrepreneur applying for a cash advance.

Article 71

1. The total amount of a bank's claims – off-balance sheet commitments and shares or participations held by the bank directly or indirectly in another entity, contributions to a limited liability company or limited partner shares – depending on that which of these amounts is higher – in a limited partnership or a limited joint-stock partnership (exposure), exposed to a single entity or to entities linked by capital or organisation structure may not exceed the exposure concentration limit which amounts to 25% of the bank's own funds.
 - 1a. The bank's exposure towards another domestic bank, credit institution, foreign bank or a group of entities linked by capital or organisation structure, comprising at least one domestic bank, credit institution or foreign bank may not exceed 25% of the bank's own funds or the equivalent of EUR 150 million, calculated in Polish zloty at the mid-rate published by Narodowy Bank Polski and ruling on the last reporting day – depending on which of the amounts is higher; and the aggregate amount of exposures towards all linked entities in the group which are not a domestic bank, credit institution or foreign bank may not exceed 25% of the bank's own funds.
 - 1b. Where the amount of EUR 150 million referred to in para. 1a exceeds 25% of the bank's own funds the amount of the exposure may not exceed the limit set by the bank for the bank's own funds.
 - 1c. The bank's management board, at least once a year, shall set the limit referred to in para. 1b and notify the Polish Financial Supervision Authority of the amount thereof. This limit may not exceed 100% of the bank's own funds.
2. (repealed).
3. The provisions of paras. 1-1c shall not apply to exposures specified by the Polish Financial Supervision Authority, which do not jeopardise safety of the banking activity and appropriate risk management in a bank:
4. The Polish Financial Supervision Authority shall specify, by resolution, detailed principles and conditions for taking into account exposures in determining compliance with the limits referred to in paras. 1-1c while accounting for the credit

risk mitigation techniques used by banks with the approval of the Polish Financial Supervision Authority in order to reduce credit risk related to such exposures.

5. Guided by the necessity of reflecting how a bank's own funds are really burdened with the risk of the pursued business activity, resulting from concentration of exposures, the Polish Financial Supervision Authority shall specify, by resolution, the exposures referred to in para. 3 and the requirements they must meet, as well as the exposures that require an authorisation from the Polish Financial Supervision Authority for the provisions of paras. 1 and 1c not to be applied.
6. A bank's management board shall immediately report to the Polish Financial Supervision Authority each case where the limit specified in para. 1-1c has been reached or exceeded. The Polish Financial Supervision Authority may set a time-limit for adjusting bank's operations to this limit. Where the amount of EUR 150 million, referred to in para. 1a, applies, the Polish Financial Supervision Authority may permit to exceed the limit referred to in para. 1b, beyond 100% of the bank's own funds.
7. Banks, observing the limits set up by law, shall specify and review internal limits of exposures pursuant to the criteria which take into account the specific nature of their business activity.
8. The Polish Financial Supervision Authority shall specify, by resolution, the requirements related to the identification, monitoring and control of exposure concentration, including large exposures.

Article 72 (repealed).

Article 73

1. For the purpose of jointly providing loan finance, banks may conclude a loan underwriting agreement.
2. Under the agreement referred to in para. 1, the banks involved shall specify the terms for extending the loan and the collateral to be taken, and shall designate the bank empowered to conclude the loan agreement.
3. The banks referred to in para. 1 shall bear the risk associated with the granted loan in proportion to the amount of funding contributed to the underwritten loan.

Article 74

During the life of the loan agreement, the borrower shall be required, at the bank's request, to present such information and documents as are necessary to assess their financial and economic standing and to enable monitoring of the loan use and repayment.

Article 75

1. Where the borrower fails to observe the terms of the loan or the borrower has lost his/her creditworthiness, the bank may reduce the amount of loan granted or give notice of termination of the loan agreement.

2. The period of notice referred to in para. 1 shall constitute 30 days, or 7 days in the event of the borrower being threatened with bankruptcy, unless the parties stipulate a longer period in the agreement.
3. A loan agreement may not be terminated upon notice due to the borrower's loss of creditworthiness or the borrower being threatened with bankruptcy if the bank has agreed to the borrower implementing a reorganisation programme.
4. The provisions of para. 3 shall apply during the entire period of the reorganisation programme execution, unless the bank finds that the reorganisation programme is not being implemented properly.

Article 75a

1. Unless the loan agreement provides otherwise, the loan repayment date shall be stipulated for both parties.
2. Where the parties have stipulated a loan repayment period longer than 1 year, the borrower may terminate the agreement with a 3-month notice.

Article 75b

1. The exercise of the right referred to in Art. 69 , para. 3 may not involve additional costs to be borne by the borrower.
2. A bank may not condition the exercise of the right referred to in Art. 69 para. 3 by the borrower upon the introduction of additional limitations, in particular it may not require the borrower to purchase foreign currency from a specific entity to repay credit instalments, the whole or apart of it.
3. Opening of the account referred to in Art. 69 para. 3 and its operation shall be free of charge where the borrower is a consumer as defined by the Act of 23 April 1964 – the Civil Code.
4. The provisions of paras. 1-3, Art. 69, para. 2, subpara. 4a and para. 3 shall apply *mutatis mutandis* to loan agreements.

Article 76

The interest applicable to the loan shall be specified in the loan agreement, with the proviso that, where a variable rate of interest is applied:

- 1) the loan agreement shall specify the conditions for the loan to be repriced,
- 2) the borrower, guarantors and, unless the agreement stipulates otherwise, any third parties being obligors under the collateral taken against the loan shall be advised, in the manner indicated in the agreement, of each repricing of the loan.

Article 76a

A bank shall immediately notify, in the way specified in the agreement, the parties being the bank's obligors under the collateral taken against a loan, if the borrower delays its repayment.

Article 77

The loan agreement may stipulate that a separate commission is due to the bank on a loan facility made available to the borrower yet remaining undrawn.

Article 77a

A bank may accept the order to extend a loan to a third party. In order to be effective, the order shall be made in writing. In such a case, if not stated otherwise in the agreement, the ordering party shall become the guarantor of the future debt.

Article 78

The provisions referring to the collateral taken in order to secure the repayment of principal and interest shall apply *mutatis mutandis* to agreements concluded by a bank to make cash advances.

Article 78a

The provisions of the Act shall apply to credit and cash loan agreements concluded by the bank according to the provisions of the Act of 12 May 2011 on Consumer Credit within the scope not regulated under the latter Act.

Article 79

1. A bank shall not apply terms more favourable than those applied by the bank to a given type of agreement related to bank accounts, extending loans, cash advances, bank guarantees, and sureties, including in particular more favourable rates of interest:
 - 1) for its parent undertakings or subsidiaries,
 - 2) for undertakings operating within the same group as the bank,
 - 3) for subsidiaries and associates of the bank as understood under the Accounting Act of 29 September 1994,
 - 4) for its own shareholders or members,
 - 5) for the bank's employees, members of the management board and members of the supervisory board,
 - 6) for the parent undertaking's employees, members of the management board and members of the supervisory board of the parent undertaking,
 - 7) undertakings linked by capital or management to:
 - a) a shareholder and a member,
 - b) a member of the management board or the supervisory board of the bank, or a person occupying a managerial position in the bank.
2. A bank shall specify, in the form of bye-laws, terms and conditions of extending loans, cash advances, bank guarantees and sureties referred to in para. 1, and shall maintain a separate record of these.

Article 79a

1. The extension of a loan, cash advance, bank guarantee or surety issued to a member of the management board or the supervisory board of the bank, or a person occupying a

managerial position in the bank, shall be governed by bye-laws adopted by the supervisory board.

2. The extension of a loan, cash advance, bank guarantee or other guarantee issued to a member of the management board or the supervisory board of the bank, where the aggregate amount of exposure is in excess of the zloty equivalent of EUR 10 000, calculated at the mid-rate published by Narodowy Bank Polski as of the day the loan, cash advance, bank guarantee or other guarantee is extended, shall require the approval, by resolution, of the management board and the supervisory board of the bank. The resolutions shall be adopted without participation of the person concerned by the majority of at least two-thirds of the votes cast in a secret ballot and in the presence of at least half of the members of the body.
3. Provisions of paras. 1 and 2 shall apply *mutatis mutandis* to the extension of loan, cash advance, bank guarantee or surety issued to an undertaking linked by capital or management to a member of the management board or the supervisory board of the bank, or to a person occupying a managerial position in the bank.
4. The aggregate amount of loans, cash advances, bank guarantees or sureties referred to in paras. 1 and 3 shall not exceed:
 - 1) in a bank incorporated as a joint-stock company and in a state bank — 10 % of the bank's total required capital,
 - 2) in a cooperative bank – 25 % of the bank's total required capital;
– with the value being set according to the principles specified under Art. 71, para. 4.
5. A person occupying a managerial position in the bank shall be understood to be an employee reporting directly to a member of the management board, and also a branch manager, a deputy branch manager and a chief accountant.

Article 79b

1. A bank shall notify the Polish Financial Supervision Authority of the extension of a loan, cash advance, bank guarantee or other guarantee issued to a member of the management board or the supervisory board, a person occupying a managerial position, bank's shareholder, member of a cooperative bank and an undertaking linked to the bank by capital or management, where in any single case this exceeds the zloty equivalent of EUR 30,000, calculated at the mid-rate published by Narodowy Bank Polski as of the day the loan, cash advance, bank guarantee or surety is extended.
2. The provision of para. 1 shall not apply to the shareholder who owns solely shares quoted on a regulated market in the amount that authorizes them to exercise not more than 5% of voting rights at a general meeting.

Article 79c

Provisions of Art. 79a and 79b shall also apply to off-balance sheet commitments, other than bank guarantees and other guarantees, extended to parties referred to in Art. 79, para. 1, or following their instructions.

CHAPTER 6

BANK GUARANTEES, SURETIES AND LETTERS OF CREDIT

Article 80

Banks may, at customers' instructions, extend and confirm bank guarantees and sureties, as well as open and confirm letters of credit.

Article 81.

1. A guarantee shall constitute a unilateral undertaking from the guarantor-bank that, on performance by the authorised person (the beneficiary of the guarantee) of specific conditions for payment, which may be attested to by documents indicated in the said undertaking, these being appended by the beneficiary to his/her claim for payment, drawn up in the prescribed form, the bank will then provide funds to the beneficiary of the guarantee, either directly or via another bank.
2. In order to be effective the extension and confirmation of a bank guarantee shall be made in writing.

Article 82

Any transfer of the bank guarantee may be performed together with the transfer of the claims secured by the guarantee.

Article 83

1. A bank may confirm the obligation made by another bank under the bank guarantee which the latter has extended; in such case claims resulting from this guarantee may be presented to the bank that issued the guarantee or the bank that confirmed it, or to both banks together, until full satisfaction of the creditor's claim.
2. Provisions of para. 1 shall apply *mutatis mutandis* to the confirmation by a bank of obligations arising under a guarantee issued by another bank.

Article 84

Bank guarantees and sureties issued by a bank shall be governed by the provisions of the Civil Code, with the proviso that a bank's obligation shall always constitute a monetary obligation.

Article 85

1. A bank (the issuing bank), acting on the instruction of a customer but on its own behalf, may make a written commitment to a third party (the beneficiary of the letter of credit) that it will pay a specified amount to the beneficiary on performance by that beneficiary of all the conditions stipulated in the letter of credit (a documentary letter of credit).
2. A documentary letter of credit must, in particular, specify the name and address of the applicant and the beneficiary, the amount and currency of the letter of credit, the date

on which the letter of credit expires, and a description of the documents to be presented by the beneficiary in order to be eligible to claim payment under the letter of credit.

3. The liability of the issuing bank shall become due on presentation by the beneficiary of the relevant documents in accordance with the terms of the letter of credit.
4. The provisions of paras. 1–3 shall apply *mutatis mutandis* to standby letters of credit.

Article 86

1. A bank (the issuing bank), acting at the instruction of a customer but on its own behalf, may make a written commitment to another bank that it will reimburse amounts paid to the beneficiary or purchase drafts drawn by the beneficiary on the specified bank (a clean letter of credit).
2. A clean letter of credit must in particular specify the name and address of the party authorised to claim payments, the amount and currency of the letter of credit, and the date on which the letter of credit expires.
3. The liability of the issuing bank shall become due on the performance of payment to the beneficiary as provided for in the letter of credit, subject to presentation by the beneficiary of an identity document.
4. Where a clean letter of credit makes payment contingent on fulfilment by the beneficiary of conditions other than that specified in para. 3, payment may be performed solely on fulfilment of all such conditions.

Article 86a

Provisions of Articles 82–86 shall apply unless the parties agree otherwise.

Article 87

1. Claims under bank guarantees and sureties extended by the bank, and letters of credit, where these have become due, shall expire after 6 years.
2. The period of limitation for claims under guarantees and letters of credit shall commence on the date a valid claim for payment is presented, and during this time the claim shall be enforceable, even though the obligation underlying the guarantee or letter of credit has already expired.

Article 88 (repealed).

CHAPTER 7

ISSUE OF BANK SECURITIES

Article 89

1. Banks may issue bank securities on terms that shall be made public.
2. Banks shall advise the President of Narodowy Bank Polski of any intended issue of securities 30 days prior to the date of issue, indicating the terms and value of the issue.

3. The President of Narodowy Bank Polski may specify, by regulation, the value and terms of issues of bank securities that require the approval of the President of Narodowy Bank Polski.

Article 90

1. Bank securities shall serve to gather funds by banks, in zloty or other convertible currencies, with the name of such securities including the words "bank security", and the inscription on such securities includes:
 - 1) the face value [of the security],
 - 2) the bank's commitment to:
 - a) calculate a specified interest at a determined rate,
 - b) pay a given sum to an authorised person at the specified dates; unless the inscription on the security provides otherwise, the authorised person shall not be entitled to call on the bank to redeem the security prior to maturity,
 - 3) designation of the holder of the security, where this is a registered security, or an annotation that the security is payable to the bearer,
 - 4) the rules for transferring the rights attached to the security,
 - 5) the serial number of the security and date of issue,
 - 6) the signatures of persons authorised to make legally binding declarations with respect to financial rights and obligations on behalf of the bank.
2. The signatures referred to in para. 1, subpara. 6, may be reproduced by mechanical means.
3. Neither the inscription on a bank security nor the public notification given by the issuing bank of the terms of the issue shall contain any comparison with the terms applicable to securities issued by other institutions.
4. Banks may also issue securities in book-entry form. The depository facility for such securities shall be provided by the bank issuing the said securities, the National Depository for Securities [*Krajowy Depozyt Papierów Wartościowych – KDPW*] or an investment firm.
5. Where a bank security is in book-entry form, all data specified in para. 1 shall be entered on the registered security certificate or other document issued by the bank to an authorised person.
6. The rights attached to bank securities issued in book-entry form shall arise on entering these securities for the first time in a custody account for bank securities, and are enjoyed by the holder of that account.
7. Transfer of the rights attached to a bank security issued in book-entry form shall be effected on performance of an appropriate entry in a custody account for bank securities as a result of the conclusion of the relevant agreement. The benefits accruing from bank securities prior to performance of such an entry shall be due to the buyer of securities, unless the agreement provides otherwise.
8. Bank securities in dematerialised form may be also registered, on the basis of an agreement concluded by the National Depository for Securities joint-stock company or a company whom the National Depository for Securities joint-stock company has

delegated the performance of activities referred to in Art. 48 para.1 subpara. 1 of the Act of July 25, 2005 on Trading in Financial Instruments, in the register of securities maintained pursuant to the provisions of that Act. In that case the provisions of that Act relating to rights on dematerialised securities shall apply to the creation and transfer of rights attached to bank securities.

Article 91

A bank may not extend loans or cash advances for the purchase of bank securities of their own issue.

Article 92

Bank securities shall not be governed by the provisions of the Act referred to in Art. 4, para. 1, subpara. 8.

CHAPTER 8

PARTICULAR RIGHTS AND OBLIGATIONS OF BANKS

Article 92a

1. A bank may conclude with an investment fund association which constitutes a securitisation fund or with a securitisation fund:
 - 1) an agreement on transfer of claims
 - 2) an agreement on sub-participation.
2. The agreement referred to in para. 1 subpara. 2 may not increase the insolvency risk or deteriorate the liquidity of a bank.
3. A bank may also assign, under an agreement, claims to a company (the issuing undertaking), being neither an investment fund association which constitutes a securitisation fund nor a securitisation fund, in order for this undertaking to issue securities backed by these aforementioned claims.
4. The issuing undertaking, to which the claims have been assigned, cannot be related by capital or management to the bank assigning claims and its scope of business activity may include solely acquisition of claims and issuance of securities referred to in para. 3, as well as activities related thereto.

Paras. 5 and 6 (repealed).

Article 92b

1. A bank shall operate the register of claims listed in the agreement referred to in Art. 92a, para. 1, subpara. 2.
2. The claims referred to in para. 1 are subject to entry in the register where the obligation under the agreement referred to in Art. 92a., para. 1, subpara. 2 become valid.
3. The Polish Financial Supervision Authority shall establish, by resolution, conditions of keeping the register referred to in para. 1.

Article 92c (repealed).

Article 92 d

A bank may conclude an agreement on a credit derivative or any agreement different from the one listed in Art. 92a, paras. 1 and 3, pursuant to which the whole or a part of the risk related to the bank's claims may be transferred.

Article 93

1. In order to secure their claims arising from banking operations, banks may require the provision of the forms of security provided for in the Civil Code and the law on bills of exchange, and customarily accepted in domestic and foreign commerce.
2. A bank may deduct from its claims a claim that has not yet matured where the debtor party has been put into liquidation, and in all other cases where the bank is entitled to collect on claims prior to maturity. Such deductions shall not involve bank account claims where these are seizure under an enforced collection against tax liabilities.

Article 93a

1. In an agreement concluded with the companies that constitute a tax capital group under the corporate tax regulations, represented by the group's parent undertaking, a bank may specify the level of consolidated interest rate for funds on the companies' bank accounts and for loans and cash advances extended to them.
2. The consolidated interest rate referred to in para. 1 shall be calculated from the difference between the total balances on the bank accounts of companies constituting a tax capital group and the sum of claims on loans and cash advances extended to those companies.
3. Unless the agreement referred to in para. 1 stipulates otherwise, funds in bank accounts, as well as loans and cash advances for which the consolidated interest rate has been set, shall not bear interest.

Article 94 (repealed).

Article 95

1. Bank ledgers and excerpts from such books, signed by persons authorised to make legally binding declarations with respect to financial rights and obligations on behalf of the bank, and with the bank's seal affixed, together with all other declarations, drawn up in this manner, relating to commitments, the release of obligations, the waiving of rights or confirmation of receipt of payment, and also attesting the extension of a loan or cash advance and their amount, interest rate and repayment terms thereof, the assignment of claims secured by mortgage or registered pledge, shall be vested with the legal validity of official public documents and shall constitute the basis for performing entries in land registers and other public records.

- 1a. The legal validity of official public documents referred to in para.1 shall not apply to the documents listed in this provision in civil proceedings.
2. The banking operation or an activity securing bank's claims confirmed by the document referred to in para. 1 shall have a certified date from the document date.
3. Documents referred to in para. 1 shall constitute the basis for entering mortgages in the land register corresponding to real estate belonging to the bank's debtor or any other party establishing mortgage in favour of the bank to secure the debtor's liabilities. Where such real estate does not have a corresponding register, the security may be taken by including these documents in the land register file.
4. To establish the mortgage referred to in para. 3, the real estate owner shall submit a statement of establishment of mortgage in favour of the bank. In order to be effective such a statement shall be made in writing.
5. Provisions of paras. 1-4 shall apply *mutatis mutandis* to reveal changes to the contents of the mortgage in the land register and to transfer the mortgage as a result of the disposal of bank claims, as well as to register a mortgage on the right of perpetual usufruct, cooperative property right to residential premises, cooperative property right to business premises as well as cooperative property right to a house.

Article 96

1. Banks may issue bank enforcement orders on the basis of their books or other documents related to the performance of banking operations.
2. A bank enforcement order should specify the bank issuing the order and on behalf of which the collection is to be effected, the debtor under obligation to pay, the amount of the debt to be paid, together with interest due and payment dates, and the date of issue of the bank enforcement order, and should denote the banking operation giving rise to the claim being enforced and mention that such a claim has matured. The bank enforcement order should bear the seal of the bank issuing the order, and the signatures of persons authorised to act on behalf of the bank.
3. Further enforcement orders may be issued where it is necessary to enforce claims on several parties or against several items of the debtor's assets.

Article 97

1. A bank enforcement order may constitute the basis for an enforcement procedure conducted pursuant to the provisions of the Code of Civil Proceedings following a writ of execution issued by a court, effective solely with respect to the direct counterparty to the banking operation or to an obligor (securing party) under security taken against the claim arising from the banking operation, where the party concerned has filed a written submission to enforcement procedure and where the claim underlying the order has arisen directly from that banking operation or the security taken.
2. The statement referred to in para. 1 should specify the debt amount up to which the bank may issue a bank enforcement order, together with the deadline by which the bank may apply for the writ of execution thereof. The securing party may also submit

to enforcement procedure by delivering items to the bank where the bank has secured its claim through a registered pledge or by transfer of title.

3. A bank's application for the writ of execution referred to in para. 1 shall be examined by the court immediately, and in all events no later than within three days of the application being filed.

Article 98

1. The bank enforcement order issued by a bank may also constitute a basis for collection from a third party, where that party assumes liability for the debt arising from the banking operation referred to in Art. 97, para. 1.
2. Where, following the execution of the banking operation referred to in Art. 97, para. 1, a duty to fulfil obligation has been transferred to other parties as a result of inheritance or transformation of a legal person, or where it is necessary to enforce collection on property jointly owned by husband and wife, a writ of execution based on an bank enforcement order issued by the bank and supported by a court writ of execution which the court addresses to the parties concerned may constitute the basis for the enforcement.

Article 99-100 (repealed).

Article 101

1. A bank's claims may be secured by assigning to the bank, by the debtor or a third party, a title to moveable assets or securities until the debt is paid, together with interest and commission due.
2. Where title is transferred to an asset specified with respect to a type or a group of assets, the debtor or third party shall be required to isolate and mark the asset or group of assets in question, and also — unless the agreement with the bank provides otherwise — to maintain a record of any changes in the form of the transfer of title.

Article 102

1. In order to secure a bank's claims the debtor or another party may transfer to the bank a certain sum, in zloty or convertible currency. The bank is obliged to refund this amount after the debt has been repaid together with interest and commission due.
2. A bank shall not be obliged to refund the part of the amount whose ownership it has assumed, which is equal to the outstanding balance of the principal, interest and commission, and other costs incurred by the bank in relation to the recovering of claims.
3. The bank may pay to a debtor or a third party, referred to in para. 1, a remuneration for the period of using the amount taken over.

Article 103 (repealed).

Article 104

1. A bank, bank staff and other persons involved in the performance of banking operations shall be bound by the obligation of banking secrecy which shall apply to all information concerning a banking operation, where such information is obtained during negotiations, conclusion and performance of an agreement under which the bank performs such operation.
2. The obligation referred to in para. 1 shall not apply in the following cases:
 - 1) where due to the nature of a banking operation or the regulations in force, proper performance of the agreement under which the banking operation is performed, or proper execution of activities related to the conclusion and execution of the agreement are not possible without the disclosure of information that is subject to the obligation of banking secrecy;
 - 2) where the information that is subject to the obligation of banking secrecy is disclosed to entrepreneurs or foreign entrepreneurs:
 - a) who the bank, under Art. 6a, para. 1 and Art. 6b–6d, entrusted, temporarily or permanently, with the performance of operations related to banking activity,
 - b) who have been entrusted with the performance of operations under Art. 6a para. 7 – within the scope necessary for proper performance of such operations;
 - 3) where the information that is subject to the obligation of banking secrecy is revealed to advocates or legal advisors in connection with the legal assistance performed by them for the bank;
 - 4) where the disclosure of information that is subject to the obligation of banking secrecy is necessary for conclusion and performance of agreements on the disposal of claims classified as “loss”, governed by separate regulations;
 - 5) where disclosure of the information that is subject to the obligation of banking secrecy is necessary to conclude and perform the agreements referred to in Art. 92 and related agreements:
 - a) on granting ratings to the securitised claims,
 - b) on insuring the securitised claims against insolvency risk of debtors;
 - 6) where disclosure of the information that is subject to the obligation of banking secrecy is necessary to conclude and perform agreement with the issuer referred to in Art. 92a, para 3 and Art. 92d and the relating agreements on:
 - a) granting ratings to the securitised claims,
 - b) servicing the securitised claims,
 - c) organisation and performance of securities issue,
 - d) on insuring the securitised claims against the risk of debtors’ insolvency;
 - 7) where disclosure of information to other banks, credit institutions or financial institutions belonging to the same financial holding is necessary for proper performance of obligations specified in provisions of law relating to counteracting money laundering and financing terrorism;
 - 8) where disclosure of the information that is subject to the obligation of banking secrecy is necessary in order to perform reverse mortgage agreements in

accordance with the Act of 23 October 2014 on Reverse Mortgage (Journal of Laws of 2014, item 1585).

3. Banks shall not be bound, subject to the provisions of para. 4, by the obligation of banking secrecy towards the person whom the information under secrecy concerns. Such information may be disclosed to third parties, subject to the provisions of Art. 105, Art. 106a and Art. 106b, solely where the person whom the information concerns authorizes the bank in writing to forward the specified information to a given person or organization.
4. A bank, the bank's staff and other persons involved in the performance of banking operations shall be bound to keep secret the information related to providing information to the police under provisions specified in Art. 20, paras. 4–10 of the Police Act of 6 April 1990 (Journal of Laws of 2011, No. 287, item 1687, as amended) and related to the notification referred to in Art. 20, para. 13 of this Act. The obligation of secrecy applies to the counterparties to the agreement, other persons whom the information concerns and third parties.
5. Entities and their staff to whom, subject to provisions of para. 2, subparas. 1, 2 and 4-6, the information that is subject to the obligation of banking secrecy has been provided or disclosed may use this information only in order to conclude or perform the agreements referred to in para. 2, subparas. 1, 2 and 4-6.
6. Provisions of para. 5 shall apply *mutatis mutandis* to advocates and legal advisors to whom the information that is subject to the obligation of banking secrecy has been provided in connection with their legal assistance rendered to the bank.

Article 105

1. A bank shall be required to disclose information that is subject to the obligation of banking secrecy solely:
 - 1) to other banks and credit institutions to the extent to which such information is necessary to perform banking operations and the acquisition and disposal of claims,
 - 1a) on a reciprocal basis – to other institutions authorised by law to grant loans – on claims, trading and balances of bank accounts to the extent to which such information is necessary to extend loans, cash advances, bank guarantees and other guarantees,
 - 1b) to other banks, credit institutions or financial institutions to the extent necessary to:
 - a) follow binding regulations concerning the supervision on consolidated basis, including in particular preparation of consolidated financial accounts also covering the bank,
 - b) manage the risk of large exposures,
 - c) apply statistical methods referred to in Art. 128d, paras. 1 and 6,
 - 1c) to the institutions referred to in para. 4 to the extent necessary to apply the statistical methods, as referred to in Art. 128d, paras. 1 and 6;
 - 2) at the request of:

- a) the Polish Financial Supervision Authority, in the scope of supervision exercised pursuant to the present Act and the Act of 21 July 2006 on the Supervision of Financial Markets, employees of the Office of the Financial Supervision Authority, in the scope as referred to in Art. 139, para. 1, subpara. 2, and persons authorised by a resolution of the Polish Financial Supervision Authority to the extent specified in the relevant authorisation,
- b) a court or public prosecutor in connection with legal proceedings under way in cases involving criminal or fiscal offences:
 - against a natural person where such person is a party to an agreement with the bank, in the scope of information related to that natural person,
 - committed in connection with the activity of a legal person or organisational unit without legal personality, in the scope of information related to that legal person or organization,
- c) a court or public prosecutor in connection with the performance of a request for legal assistance from a foreign state which, on the basis of a ratified international agreement binding on the Republic of Poland, has the right to request information that is subject to the obligation of banking secrecy,
- d) a court in connection with inheritance proceedings under way or the division of the joint property of husband and wife, and also legal proceedings under way against a natural person in cases involving alimony or alimony pension, where the said person is party to an agreement with the bank,
- e) the General Inspector of Fiscal Control in connection with:
 - legal proceedings under way against a natural person in cases involving criminal or fiscal offences, where the said person is party to an agreement with the bank,
 - legal proceedings under way in cases involving criminal or fiscal offences committed, in respect of the activity carried out by a legal person or an organisational unit without legal personality, where such is account holder at the bank,
- f) the President of the Supreme Chamber of Control to the extent necessary to carry out the inspection procedures specified in the Act of 23 December 1994 on the Supreme Chamber of Control (Journal of Laws of 2012, item 82, 1529 and 1544),
- g) (repealed),
- h) the Bank Guarantee Fund to the extent specified by the Act of 14 December 1994 on the Bank Guarantee Fund,
- i) the certified auditor appointed to audit the bank's accounts by contractual agreement with the bank,
- j) (repealed),
- k) the Internal Security Agency, the Military Counterintelligence Agency, Foreign Intelligence Agency, the Military Intelligence Service, Central Anticorruption Bureau, Police, Military Police, Border Guard, Prison Service, Government Protection Bureau and officers or soldiers thereof, furnished with due written

authorisation, to the extent necessary to conduct inquiries pursuant to the regulations on the protection of classified information,

- l) the Police, where this is necessary for effective crime prevention or detection, or to detect and establish the perpetrators of a crime and gather evidence, in accordance with the principles and procedure specified in Art. 20 of the Police Act of 6 April 1990,
- l) a court bailiff, in connection with enforcement proceedings, proceedings to secure claim that are under way and performance of other activities pursuant to the court bailiff's statutory tasks,
- m) issuers of electronic payment instruments other than banks, to the extent specified in the Act of 19 August 2011 on Payment Services,
- n) the General Inspector of Personal Data Protection to the extent necessary to perform statutory tasks specified in Art. 12 and 14 of the Act of 29 August 1997 on Personal Data Protection (Journal of Laws of 2014, item 1182 and 1662),
- o) a co-ordinator in relation to his carrying out of a supplementary supervision of a financial conglomerate as understood by the Act on Supplementary Supervision,
- p) the Head of the Central Anticorruption Bureau in accordance with the principles and procedure specified in Art. 23 of the Act of 9 June 2006 on the Central Anticorruption Bureau (Journal of Laws of 2014, item 1411 and 1822),
- q) a competent supervisory authority if it is necessary for this authority to exercise supervision over the bank on a consolidated basis, and in the case of a competent supervisory authority from a non-Member State – provided that the Polish Financial Supervision Authority has entered into an agreement, referred to in Art. 141f, para. 3, with this authority,
- r) the President of the Office of Competition and Consumer Protection to the extent specified by the Act of 30 April 2004 on the Procedural Issues Concerning Public Aid (Journal of Laws of 2007, No. 59, item 404, as amended),
- s) a public prosecutor, the Police and other law enforcement authorities authorised to carry out preparatory proceedings in cases involving a criminal offence or discovery process in cases of minor offences – within the scope specified in Art. 78 para. 4 of the Act of 20 June 1997 Law on Road Traffic (Journal of Laws of 2012, item 1137, as amended),
- t) a Customs Service authority in accordance with the principles and procedure specified in Art. 75 of the Act of 27 August 2009 on the Customs Service (Journal of Laws of 2013, item 1404, as amended),
- u) an entity as referred to in Art. 26l para. 1, subpara. 1 of the Act of 14 December 1994 on the Bank Guarantee Fund to the extent necessary to ensure the proper disbursement of guaranteed funds,
- v) an administrative enforcement authority and a central liaison office referred to in Article 9 of the Act of 11 October 2013 on Mutual Assistance for the Recovery of Taxes, Duties and Other Pecuniary Claims (Journal of Laws of 2013, item 1289), in relation to the performance of their statutory duties;

- 3) to Narodowy Bank Polski with respect to the inspection performed and the gathering of data essential for drawing up a balance of payments and an international investment position, as well as to other banks authorised to act as an intermediary in executing payment orders to foreign countries by residents and domestic settlements with non-residents, to the extent specified in the Foreign Exchange Act of 27 July 2002 (Journal of Laws of 2012, item 826 and of 2013, item 1036).
2. The scope and procedures for providing information by banks to tax authorities, the General Inspector of Financial Information, fiscal inspection agencies, as well as to the trustee and his/her deputy, under the provisions of the Act of 29 August 1997 on Mortgage Banks and Mortgage Bonds (Journal of Laws of 2003, No. 99, item 919, as amended) shall be laid down in separate legislation.
- 2a. Banks, at a written request of the Social Insurance Institution, shall be required to draw up and forward information on the bank account numbers of contribution payers, and forward the data enabling identification of those account holders.
3. Banks, other institutions authorised by statute to extend loans, state institutions and other persons to whom information that is subject to the obligation of banking secrecy has been disclosed shall be bound to use such information solely within the limits to which they are authorised under para. 1.
4. Banks, together with bank chambers of commerce, may establish institutions authorised to collect, process and provide:
 - 1) to banks – information subject to the obligation of banking secrecy to the extent to which such information is necessary to perform banking operations and in connection with the use of statistical methods referred to in Art. 128, para. 3 and Art. 128d, para. 1,
 - 2) to other institutions authorised by statute to extend loans – information subject to the obligation of banking secrecy in the scope needed to extend loans, cash advances, bank guarantees and other guarantees,
 - 3) credit institutions – information subject to the obligation of banking secrecy in the scope necessary to assess the credit worthiness of a customer, referred to in Article 9 of the Act of 12 May 2011 on Consumer Credit.
- 4a. Without prejudice to para. 4a1 and 4a2, institutions established under the provisions of para.4 may provide data to business information agencies operating under the Act of 9 April 2010 on Granting Access to Business Information and Interchange of Economic Data (Journal of Laws of 2014, item 1015 and 1188) by way of teletransmission.
- 4a¹ Providing access to data pursuant to para. 4a may take place where the creditor requesting such data access has obtained a written authorisation from the person whom the data relates to. The authorisation defines the scope of data to be disclosed.
- 4a² The manner in which the data access is made available shall be stipulated by an agreement concluded between an institution established pursuant to para. 4 and a business information agency. The agreement shall include a specimen form of authorisation referred to in para. 4a¹

- 4b. Banks may provide the agencies referred to in para. 4a, with access to data on liabilities following from agreements related to the performance of banking operations, where such agreements include clauses informing of the possibility of forwarding data to those agencies.
- 4c. The clauses referred to in para. 4b, contain information on the terms on which the banks shall forward the data referred to in Art. 7, para. 2 and Art. 8, para. 1 of the Act referred to in para. 4a to the agencies.
- 4d. Institutions established pursuant to para. 4 may make the access to information on liabilities following from agreements related to banking operations available to financial institutions that are banks' subsidiaries, where such agreements include clauses informing of the possibility of forwarding data to those financial institutions.
5. Banks shall be liable for any damage resulting from their disclosure of information that is subject to the obligation of banking secrecy and from the use of such information for purposes other than those for which they were originally designed.
6. Banks shall not be liable for any damage resulting from the disclosure of information that is subject to the obligation of banking secrecy by the persons and institutions authorised under the hereby Act to require banks to provide the information that is subject to the obligation of banking secrecy.

Article 105a

1. Banks, other institutions authorised by statute to grant loans and institutions established pursuant to Art. 105, para. 4, may process the information that is subject to the obligation of banking secrecy in the scope concerning natural persons, subject to Art. 104, 105 and 106-106c, in order to assess creditworthiness and conduct credit risk analysis.
2. The institutions referred to in para. 1 may, subject to the provision of para. 3, process the information that is subject to the obligation of banking secrecy within the scope concerning natural persons after the expiry of the liability resulting from agreements concluded with the bank or other institution authorised by statute to grant loans, provided that they obtain a written consent of the person the information relates to. The consent may be withdrawn at any time.
3. The institutions, referred to in para. 1, may process the information that is subject to the obligation of the banking secrecy and related to natural persons, without consent of the person the information relates to, after the liability resulting from the agreement concluded with the bank or other institution authorised by statute to grant loans expires, where the person in question did not satisfy the liabilities or was guilty of delay of 60 days in providing performance resulting from the agreements concluded with the bank or other institution authorised by statute to grant loans, and, following the occurrence of these circumstances, at least 30 days passed since that person was notified by the bank or other institution authorised by statute to grant loans about the intention of processing the related information that is subject to the obligation of banking secrecy without his/her consent.

4. Banks and the institutions referred to in Art. 105, para. 4 may process the information that is subject to the obligation of the banking secrecy and related to natural persons after the liability resulting from the agreement concluded with the bank or other institution authorised by statute to grant loans expires, without the consent of the person the information relates to, for statistical purposes referred to in Art. 128, para. 3.
5. The information that is subject to the obligation of the banking secrecy referred to in para. 3 may be processed for no longer than 5 years after the liability expires and in the case referred to in para.4 for a period of 12 years after the expiry of the liability.
6. The scope of the processed information referred to in paras. 3 and 4 may include the data related to the natural person and the data related to the liability.
7. The minister competent for financial institutions, after having sought the opinion of the competent supervisory authorities shall specify, by regulation, a detailed scope of the processed information referred to in para. 6 and the procedure for deleting it, taking into consideration the appropriate protection of rights of persons whom the information relates to, as well as the necessity to ensure the safety of funds accumulated in banks or other institutions authorised by statute to grant loans.

Article 106

1. A bank shall be required to counteract using the bank's business activity for purposes associated with the criminal offence referred to in Art. 165a and Art. 299 of the Code of Penal Proceedings of 6 June 1997 (Journal of Laws of 1997, No. 88, item 553, as amended), hereinafter referred to as the "Penal Code".
2. The procedure to be applied by the bank in the event of the circumstances referred to in para. 1 shall be laid down in a separate Act.
3. (repealed).
4. (repealed).
5. (repealed).

Article 106a

1. Where there is a reasonable suspicion that a bank's activity is used in order to conceal criminal activities or for purposes related to a fiscal offence or criminal offence other than the one referred to in Art. 165a and Art. 299 of the Penal Code the bank shall notify of that fact the prosecutor, the Police or other competent authority authorised to conduct preparatory proceedings.
2. The prosecutor, the Police or other competent authority authorised to conduct preparatory proceedings who has received the notification referred to in para. 1 may request complementary information, also during activities undertaken pursuant to Art. 307 of the Code of Penal Proceedings of 6 June 1997 (Journal of Laws of 1997, No. 89, item 555, as amended).
3. In the case of a reasonable suspicion that funds held on a bank account, in whole or in part, come from or are connected with an offence other than the offence referred to in Art. 165a and Art. 299 of the Penal Code, the bank may block the funds on such an

account. The blockage of funds may be performed only up to the amount of suspected funds on the account.

4. The blockage of funds on the account performed in the circumstances referred to in para. 3 may not last longer than 72 hours.
5. Immediately after blocking the funds referred to in para. 3 the bank notifies a public prosecutor.
6. Within the time-limit specified in para. 4 the prosecutor shall issue a decision on initiating or refusing to initiate the proceedings and notifies the relevant bank of this fact. The time-limit specified in Art. 307 para. 1 of the Code of Penal Proceedings shall not apply. When the prosecutor initiates, by decision, the proceedings, he imposes a blockage of funds on an account for a specified period of time not longer than 3 months from receiving the notification referred to in para. 5. The decision defines the scope, manner and time-limit for blocking the account.
7. The prosecutor's decision on blocking funds on an account may be appealed against to a court that is competent for considering the matter.
8. The blockage of funds on an account shall be cleared if no decision relating to security on property has been issued by the lapse of 3 months from receiving the notification referred to in para. 5.
9. The provisions of the Code of Penal Proceedings shall apply to issues relating to blocking funds on an account that are not governed by the Act.
10. Banks shall not be liable for any damage which may arise from their performance in good faith of the requirements specified in paras. 3-5. Where the circumstances referred to in paras. 3-5, were not associated with a criminal offence or the concealment of criminal activity, referred to in para.1, liability for damage arising from blocking funds on the account shall be borne by the State Treasury.
11. A bank shall block the funds on the bank account in whole, also at the request for the blocking of funds referred to in Art. 75e, para. 1 of the Act of 27 August 2009 on Customs Service. The provisions laid down in para. 10 shall apply *mutatis mutandis*.

Article 106b

1. Apart from cases specified in Art. 105 and 106a, the prosecutor who conducts criminal or fiscal offence proceedings may request a bank, the bank staff or other persons involved in the performance of banking operations to disclose information that is subject to the obligation of banking secrecy solely under a decision issued at his/her request by the territorially competent regional court.
2. The application referred to in para. 1 shall include the following:
 - 1) case number or case reference number,
 - 2) description of the offence together with the legal qualification to which the preparatory proceedings relate,
 - 3) circumstances that justify the need to obtain access to information,
 - 4) indication of a person or organisational unit to which the information relates,
 - 5) the entity obliged to enable access to information and data,
 - 6) type and scope of information.

3. Having reviewed the application the court shall, by decision, issue authorisation to disclose information, specifying its type and scope, the person or organisational unit to which the information relates, the entity obliged to disclose information, or the court shall refuse the authorisation to disclose information.
4. The prosecutor applying for a decision referred to in para. 3 shall have the right of complaint against the court's decision.
5. The prosecutor authorised by the court shall notify the entity obliged to disclose information of the court's decision, the person or organisational unit to which the information relates and the type and scope of such information.

Article 106c

The prosecutor conducting the proceedings may, in the cases specified in Art. 105, para. 1 subpara. 2, points b and c, under a decision issued at his/her request by a competent district court, demand information that is subject to the obligation of banking secrecy from entities to whom the bank disclosed the information subject to the obligation of banking secrecy. Provisions of Art. 106b, paras. 2-5 shall apply *mutatis mutandis*.

Article 106d

Banks and institutions referred to in Art. 105 para. 4 may process and make available to other banks information that is subject to the obligation of banking secrecy in the case of

- 1) reasonable suspicions referred to in Art. 106 para. 3;
- 2) offences committed to the detriment of banks, credit institutions as well as financial institutions and their customers in order to prevent such offences and in a way necessary to do so.

Article 107

A bank employee who, in violation of his/her responsibilities, fails to give notification of the circumstances referred to in Art. 106, para. 1, shall be subject to disciplinary sanction, which shall not absolve the said employee of criminal liability should his/her actions display the attributes of a criminal offence.

Article 108

Banks shall not be liable for any damage that may arise from their performance in good faith of the requirements specified in Art. 106, para. 1. In such case, where the circumstances referred to in Art. 106, para. 1, were not associated with a criminal offence or the concealment of criminal activity, liability for damage arising from non-performance of banking operations shall be borne by the State Treasury.

Article 109

1. Within the scope of their business activity, banks may issue general terms and conditions of agreements and other rules, these specifying:
 - 1) terms and conditions for opening and operating bank accounts,

- 2) types of loans extended and the terms and conditions of loan and cash advances agreements,
 - 3) terms and conditions for the provision of safe deposit facilities,
 - 4) terms and conditions for the performance of other services by the bank.
2. The provisions of the general terms and conditions of agreements and other rules referred to in para. 1 shall be binding on the parties to an agreement, insofar as such parties shall settle differently in the agreement their rights and obligations.

Article 110

Banks may charge commissions or fees, as provided for in the relevant agreements, on banking operations they perform, and fees for the performance of other operations, including fees for preparing, compiling and forwarding information subject to the obligation of banking secrecy to the persons, agencies and institutions authorised to require and receive such information under the present Act, with the exception of the cases where such information is provided at the request of:

- 1) a court or public prosecutor in the course of criminal proceedings or proceedings in fiscal offence cases,
- 2) a public prosecutor in cases concerning the use of banking activities for purposes associated with the criminal offence referred to in Art. 299 of the Penal Code,
- 3) persons authorised by the resolution of the Polish Financial Supervision Authority and banking supervision inspectors,
- 4) the General Inspector of Fiscal Control, the head of a fiscal audit office or a head of a tax office, in the scope specified in separate acts,
- 5) the Social Security Institution, in matters pertaining to the bank account numbers of contribution payers, and data enabling identification of the account holders,
- 6) the Internal Security Agency, the Military Counterintelligence Agency, Foreign Intelligence Agency, the Military Intelligence Service, Central Anticorruption Bureau, Police, Military Police, Border Guard, Prison Service, Government Protection Bureau with respect to verifying procedures conducted under regulations on protection of classified information.
- 7) a public prosecutor, the Police or other authorities entitled to conduct preparatory proceedings in cases involving criminal offence or discovery process in cases of minor offences within the scope of information forwarded with relation to these proceedings.
- 8) a body of the Customs Service in connection with legal proceedings relating to tax offences that are under way.

Article 111

1. A bank shall be required to display at its place of business, in a manner generally accessible to the public:
 - 1) the interest rates applicable to bank accounts, loans and advances,
 - 2) fees and commission schedules,
 - 3) interest capitalisation periods,

- 4) exchange rate schedules,
 - 5) a balance sheet, together with the opinion of a certified auditor, for the most recent period subject to audit,
 - 6) the composition of the bank's management and supervisory boards,
 - 7) (repealed),
 - 8) the names of the persons authorised to undertake commitments on behalf of the bank or an organisational unit thereof.
 - 9) (repealed).
2. In addition to the information referred to in para. 1, cooperative banks shall also be required to state their trading area and their affiliating bank.

Article 111a

1. Subject to the provisions of para. 2, a bank is required to publish, in a generally accessible manner:
 - 1) quality and quantity information related to capital adequacy,
 - 2) rules for determining remuneration of persons holding managerial positions in a bank.
2. The requirement referred to in para. 1 does not apply to:
 - 1) the information which, while omitted or distorted, does not change the assessment or decision of a person using that information while making economic decisions or have any impact on such assessment or decision (irrelevant information),
 - 2) the information disclosure of which may have a negative impact on the bank's position on the relevant markets defined by provisions on competition and consumer protection,
 - 3) information which is a legally protected secret.
3. In the case referred to in para. 2, subparagraphs 2 and 3 banks shall present reasons for restraining the publication of information and disclose general data related to this, insofar as this is not the information referred to in para. 2, subparagraphs 2 and 3.
4. The Polish Financial Supervision Authority shall define, by resolution, detailed principles and procedure for publishing information referred to in paras. 1 and 3 and the scope of information subject to publication.

Article 111b

1. A bank shall be required to publish, in a generally accessible manner, information concerning entrepreneurs and foreign entrepreneurs referred to in Art. 6a, paras. 1 and 7, if they gain access to information subject to the obligation of banking secrecy while performing the operations referred to in those provisions for a bank organisational unit or another entrepreneur or foreign entrepreneur.
2. At the request of a party concerned, the bank shall be also required to make available free of charge the information referred to in para. 1 at the place where the operation referred to in Art. 111 para. 1 is performed.

Article 112

Matters of dispute arising from relations between Narodowy Bank Polski and other banks in respect of:

- 1) minimum reserve requirements,
- 2) interbank clearings,
- 3) trading in securities,

shall be referred to the *Voivodship Court* in Warsaw – Commercial Court.

Article 112a (repealed).

Article 112b

For the purposes of their banking activity, banks may process information included in identity documents of natural persons.

CHAPTER 9**ASSOCIATION, AMALGAMATION AND DIVISION OF BANKS**

Articles 113 -120 (repealed).

Article 121

1. Banks may associate in banking chambers of commerce.
2. The banking chambers of commerce shall be governed by the provisions of the Act of 30 May 1989 on Chambers of Commerce (Journal of Laws of 2009, No. 84, item 710; and of 2014, item 1662).

Article 122

1. Bank may associate with other banks pursuant to a contractual agreement.
2. The rights and obligations of the association members shall be specified in an agreement.
3. Notification of the formation of an association shall be provided to the Polish Financial Supervision Authority, as shall the agreement on association.

Article 123

1. The presidents of management boards of the banks shall constitute a council of associated banks.
2. The scope and mode of operation of the council of the associated banks and the implementation of its resolutions shall be specified by the agreement.

Article 124

1. A bank may amalgamate only with another bank upon approval of the Polish Financial Supervision Authority.

2. The Polish Financial Supervision Authority refuses to grant approval referred to in para. 1 where the amalgamation may contravene the provisions of law, be against interests of customers of the bank participating in the amalgamation or jeopardize safety of funds held in this bank.
3. In the event where the acquiring bank is a domestic bank the amalgamation of banks may be performed solely by transferring total assets of the acquired bank or the acquired credit institution to the acquiring bank, in exchange for shares issued by the acquiring bank to members or shareholders of the acquired bank or the acquired credit institution. Shares shall not be issued in the case referred to in Art. 514 of the Commercial Companies Code.

Article 124a

The acquisition of a banking business or an organised part thereof by a bank shall require the authorisation of the Polish Financial Supervision Authority.

Article 124b

Cooperative banks shall not be subject to a division referred to in Part I Title I Section XI of the Cooperatives Act.

Article 124c

1. Banks in the form of a joint-stock company may be divided exclusively in the way defined in Art. 529, para. 1 subpara. 4 of the Commercial Companies Code, with the proviso that the part of assets of the bank being divided shall be transferred to the joint-stock company which is a domestic bank or a credit institution.
2. Division of the bank referred to in para. 1 shall require the authorisation of the Polish Financial Supervision Authority. The Polish Financial Supervision Authority shall refuse to issue such an authorisation if the division may turn out to be detrimental to the sound and prudent management of the bank being divided or the banks to which the assets of the bank being divided are transferred or if the division may cause substantial loss for the national economy or for the important interest of the State.

Article 125 (repealed).

CHAPTER 10

OWN FUNDS, INTERNAL CAPITAL AND FINANCE MANAGEMENT IN BANKS

Article 126

In order to ensure their economic safety, banks shall be required to possess own funds adjusted to the scale of the operations they conduct.

Article 127

1. A bank's own funds shall comprise:
 - 1) required capital,
 - 2) supplementary funds, this being no greater than the bank's required capital,
 - 3) (repealed).
2. A bank's required capital shall comprise:
 - 1) principal funds which constitute as follows:
 - a) at a state bank — the registered equity fund, surplus fund and reserve fund,
 - b) at a bank incorporated as a joint-stock company — paid-up and registered capital, together with the capital surplus and reserve capital, excluding any liabilities due to preference shares,
 - c) at a cooperative bank — the member's share fund, paid-up, together with the resource fund and reserve fund,
 - d) at a branch of a foreign bank — the funds defined in the branch bye-laws,
 - 2) additional items of the required capital, these consisting in:
 - a) a general risk reserve held against unidentified risk arising from banking activity,
 - b) prior period undistributed profit,
 - c) profit under authorisation and net profit from the current reporting period, calculated in accordance with current accounting principles, reduced by the expected burdens and dividends, in the amounts not higher than the amounts of profit verified by external auditors,
 - d) other items of the bank's balance sheet, specified by the Polish Financial Supervision Authority;
 - 3) less — deductions from the required capital, these consisting in:
 - a) own shares in possession of the bank, priced at the balance sheet value, minus valuation allowances established against a permanent diminution in value,
 - b) intangible assets priced at balance sheet value,
 - c) prior period losses,
 - d) loss pending confirmation,
 - e) current period net loss,
 - f) other deductions from the bank's required capital specified by the Polish Financial Supervision Authority.
3. A bank's supplementary funds shall comprise:
 - 1) capital (or fund) from the revaluation of tangible fixed assets established based on separate regulations,
 - 2) subject to the approval of the Polish Financial Supervision Authority:
 - a) an additional portion of the commitments of members of a cooperative bank, as set by the Polish Financial Supervision Authority, this being no greater than half of the amount referred to in Art. 10, para. 2 of the Act on the Operations of Cooperative Banks, Their Affiliation, and Affiliating Banks,
 - b) subordinated debts, these constituting liabilities arising on the acceptance by the bank of funds, in an amount and according to principles determined in a decision of the Polish Financial Supervision Authority, issued at the request of

the bank, which funds shall be reduced at the end of each year during the final five years of the relevant agreement by 20% of the amount concerned, with this amount being no greater than half of the required capital of a state bank, a bank incorporated as a joint-stock company or a branch of foreign banks, while at a cooperative bank the sum total of this amount and the additional portion of members' commitments referred to in point a shall not exceed half of the bank's required capital, where the said funds, in accordance with the relevant agreement, fulfil all of the following conditions:

- the funds shall have been accepted for a period of no less than 5 years (the tenor of the agreement),
- the funds cannot be withdrawn from the bank prior to expiry of the tenor of the agreement, subject to the provision of para. 4 herein,
- in the event of the bank's bankruptcy or liquidation, the funds shall rank after the claims of all other creditors,
- repayment of the funds shall not have been secured by the bank, either directly or indirectly,

c) funds established from the bank's own or external funds, under condition that:

- the bank may be free to use them to cover an unidentified risk,
- their amount was calculated in accordance with binding accounting standards, it was set up by the bank management board and reviewed by certified auditors,

d) liabilities resulting from securities of unspecified maturity and other similar instruments, under condition that:

- they are not subject to repayment at creditor's request without prior approval of the Polish Financial Supervision Authority,
- the agreement entitles the bank to postpone repayment of interest due on those items,
- in the event of the bank's bankruptcy or liquidation, the funds shall rank after the claims of all other creditors
- the issue terms and conditions ensure that losses may be covered with debt amount including unpaid interest resulting from these items,

3) other items [of the bank's balance sheet] specified by the Polish Financial Supervision Authority, in order to carry out safe banking activity and to correctly manage risk at the bank,

4) deductions from supplementary funds specified by the Polish Financial Supervision Authority.

4. At the request of a bank, the Polish Financial Supervision Authority may grant permission for the early repayment of the funds referred to in para. 3, subpara 2 point b, provided that the requirement referred to in Art. 128, para. 1, is fulfilled.

5. The Polish Financial Supervision Authority:

1) shall specify, by resolution, the amount of the additional portion of the commitments of members of a cooperative bank referred to in para. 3, subpara. 2

point a that may be included in the own funds of a cooperative bank, and the conditions for such inclusion,

1a) (repealed),

2) may specify, by resolution:

- a) other items of the bank's balance sheet, referred to in para. 2, subpara. 2 point d, the amount thereof, scope and conditions for including them in the bank's required capital,
 - b) the amount, scope and conditions for deducting the items referred to in para. 2, subpara. 3, points a-e, from the bank's required capital,
 - c) other deductions from the required capital referred to in para. 2, subpara. 3, point f, their amount, scope and conditions for deducting them from the bank's required capital,
 - d) other items of the bank balance sheet referred to in para. 3, subpara. 3, the amount thereof, scope and the conditions for including these in bank supplementary funds,
 - e) other deductions from the bank supplementary funds referred to in para. 3, subpara. 4, the amount and scope thereof, and the conditions for performing such deductions.
6. At the request of a bank undergoing a reorganisation programme or a bank acquiring the bank facing bankruptcy or liquidation the Polish Financial Supervision Authority may issue a consent for not including, in part or in full, the bank's capital exposure in financial and credit institutions, banks and insurance and reinsurance companies, or a part thereof, in deductions from the required capital or supplementary funds in order to establish limits referred to in Art. 71, paras. 1–1c, where this exposure is in the form of:
- 1) possessed shares and participation units,
 - 2) amounts qualified as subordinated debt,
 - 3) other capital exposures in items included in own funds or capital of these entities, including extra payments for the benefit of limited companies, in accordance with the balance sheet value.
7. Procedure of including in or deducting from, referred to in para. 5, subparas. 1 and 2, may require approval of the Polish Financial Supervision Authority. The requirement for approval shall be established by the resolutions referred to in para. 5, subparas. 1 and 2.

Article 128

1. A bank shall be obliged to maintain:

- 1) its own funds at a level no lower than the zloty equivalent of the sum specified in Art. 32, para. 1, and in the case of a cooperative bank, which is a member of an association, the equivalent of the amount specified in Art. 32, para. 2, taking into consideration Art. 172, para.3, converted at the mid-rate published by Narodowy Bank Polski and ruling on the day the accounts are drawn up, with the proviso that non-cash contributions cannot exceed 15% of the bank principal funds,

- 2) the sum total of own funds and the additional items of the bank balance sheet specified by the Polish Financial Supervision Authority, at a level no lower than the higher amount of the following values:
 - a) the sum of capital requirements connected with particular types of risk and the capital requirements against the exceeding of limits and breaking of other rules specified by statute,
 - b) the amount, estimated by the bank, which is necessary to cover all identified and significant types of risk involved in the bank activity and changes in the economic environment, including the forecasted level of risk (internal capital),
 - 3) its solvency ratio at a level of at least 8%, with a bank commencing operations required to maintain this ratio at no less than 15% for the first 12 months of operations, and at no less than 12% for the following 12 months.
2. A bank performs regular revision of the process of estimating and maintaining internal capital to ensure that this process is comprehensive and appropriate for the nature, scale and complexity of the bank's operations.
 3. With the consent of the Polish Financial Supervision Authority a bank is entitled to use statistical methods to calculate capital requirements.
 4. In order to establish capital requirements a bank may use credit ratings, on terms, principles and in the manner specified in the resolution of the Polish Financial Supervision Authority referred to in para. 6, subpara. 5, granted by:
 - 1) external credit rating institutions specified in the resolution of the Polish Financial Supervision Authority, referred to in para. 6 subpara.6,
 - 2) export credit agencies.
 5. Banks, external credit rating institutions and export credit agencies, whose ratings are used by the banks, are obliged to provide the Polish Financial Supervision Authority with information needed to verify if the conditions for using such ratings are met.
 6. The Polish Financial Supervision Authority shall specify by resolution:
 - 1) the additional bank balance sheet items, referred to in para. 1, subpara. 2, and the scope, procedure and conditions for determining them,
 - 2) detailed terms for estimation of internal capital and its reviews conducted by banks, referred to in para. 2,
 - 3) the scope and detailed principles for setting up capital requirements, including terms and the scope of using the methods referred to in para. 3, and the range of information enclosed by the bank to the applications for approval referred to in para. 3 and Art. 128d para. 1,
 - 4) procedure and detailed principles for calculating the bank solvency ratio,
 - 5) terms and procedures of using credit ratings given by external credit rating institutions and export credit agencies, principles of linking the credit ratings allocated by the external credit rating institutions with the credit quality ratings, conditions for changing such links and principles of using by banks the credit ratings provided by the export credit agencies in order to determine the capital requirements,

- 6) the credit ratings given by external credit rating institutions which may be used by banks in order to determine capital requirements, as well as the extent to which these ratings may be used and their links with the credit quality ratings,
 - 7) the principles and conditions under which banks may consider conclusion of the agreements referred to in Art. 92a, paras. 1 and 3 and Art. 92d for the needs of setting up the capital requirement referred to in para. 1 subpara. 2.
7. In the event of a failure to fulfil the requirements referred to in para. 1, the bank concerned shall be required to notify the Polish Financial Supervision Authority immediately.
 8. The Polish Financial Supervision Authority may establish by resolution mandatory prudential standards regulating permissible risks in banks' activity, other than the capital requirements, and determine the extent to which these standards are to be applied.
 9. In particularly justified cases, the Polish Financial Supervision Authority may grant permission to exceed the limit on the size of non-cash contributions referred to in para. 1, subpara. 1.
 10. Whether the bank shall take into consideration the additional items of bank balance sheet referred to in para. 6, subpara. 1, the methods to be used, referred to in para. 6, subpara. 3 while meeting the requirements established based on these regulations, may depend on getting the approval of the Polish Financial Supervision Authority, other than the one indicated in para. 3.

Article 128a

A bank shall be required to provide, at the request of the Polish Financial Supervision Authority, any and all information concerning the composition of its own funds, as referred to in Art. 127, and also on its compliance with the requirements and standards laid down in Art. 128.

Article 128b

1. The Polish Financial Supervision Authority may, at the request of a state bank, exempt a part of the activity or the entire activity of that bank related to servicing the funds created, entrusted or transferred to that bank pursuant to separate acts or as a part of government programs executed by such bank, from the obligation to comply with certain requirements and standards stipulated in the present Act.
2. The Polish Financial Supervision Authority may, at the request of a state bank, issue an authorisation to entrust another bank with the task of assessing the capacity to repay the liability and performing the analysis of liability disbursement risk in the case where:
 - 1) this other bank has received from the state bank guarantees or sureties for its credit portfolio, defined as a set of individual credits extended by the bank, for which the total limit of the guarantees or sureties has been specified in the agreement concluded by this other bank and the state bank.

- 2) a surety or a guarantee has been granted for the portfolio of proper performance of other commitments, defined as a set of individual agreements concluded under civil law, for which the total limit of the sureties or guarantees has been specified in the agreements concluded by the other bank and the state bank.

Article 128c

With a 30-day notification, a bank shall notify the Polish Financial Supervision Authority of its intention to purchase a portfolio of shares the value of which shall exceed 5% of the bank's own funds.

Article 128d

1. A bank which is an EU parent undertaking and its subsidiaries acting with this bank in a holding and subsidiaries of the EU entity dominating a financial holding are entitled to apply jointly statistical methods referred to in Art. 128, para. 3, having obtained the consent of the Polish Financial Supervision Authority. The latter, while issuing such a consent may specify the terms and conditions for using such methods.
2. The Polish Financial Supervision Authority shall issue the consent referred to in para. 1 within 6 months after the complete application for such a consent has been submitted. Art. 33 shall apply *mutatis mutandis* to the procedure related to the application for consent.
3. In the process of issuing the consent, the Polish Financial Supervision Authority cooperates with competent supervisory authorities, in order to achieve a common position, both on the solution itself and prerequisites thereof.
4. If by the time referred to in para.2, the Polish Financial Supervision Authority and the competent supervisory authorities do not reach an agreement, the Polish Financial Supervision Authority issues the consent having taken into consideration opinions expressed by the competent supervisory authorities. In the statement of reasons for the decision the Polish Financial Supervision Authority shall include opinions and objections of other competent supervisory authorities received within the period referred to in para. 2.
5. The competent supervisory authorities shall receive the decision concerning the consent.
- 5a. If, before the end of the time-limit referred to in para.2, the competent supervisory authority communicates the case to the European Banking Authority in accordance with Art. 19 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12), hereinafter referred to as "Regulation No 1093/2010", the Polish Financial Supervision Authority shall stay the proceedings until the European Banking Authority takes a decision in accordance with Art. 19 para. 3 of this regulation.
6. In the case where the consent for using the statistical methods jointly by the EU parent institutions and their subsidiaries or the subsidiaries of the EU institutions

dominating in the financial holding company is issued by other competent supervisory authorities, the Commission for Banking Supervision shall cooperate with them in this process.

7. The bank referred to in para. 6 shall notify the Polish Financial Supervision Authority about its intention of joint use of statistical methods and the planned scope and term of submitting the application for consent of the competent supervisory authority referred to in para.6.
8. The bank referred to in para. 6 after having submitted the application for consent to be issued by the competent supervisory authority referred to in para. 6 immediately submits the application covering the bank issues to the Polish Financial Supervision Authority. Art. 141, para. 3 applies *mutatis mutandis* in this case.
9. The Polish Financial Supervision Authority may express its opinion on the procedure referred to in para. 6 within the term which allows for the competent supervisory authority to issue the consent within the period of 6 months after the receipt of the application for consent by that authority.
10. The Polish Financial Supervision Authority communicates the decision related to the application for joint use of statistical methods and issued by the competent supervisory authority to the bank referred to in para. 6.

Article 129

1. Banks shall manage and administer their finances independently, on the basis of a financial plan, in a manner which ensures that income earned covers operating expense and other obligations.
2. The appropriation of net earnings to particular components of capital, and the purpose thereof, together with the principles to be employed in absorbing losses, shall be specified in the bank's articles of association.
3. The appropriation of an amount in excess of the previous financial year's earnings, less unabsorbed losses, own shares and amounts that cannot be appropriated to dividend payments, shall require the approval of the Polish Financial Supervision Authority.

Article 130

1. Banks shall be entitled to expense against income charges to general risk provisions, intended to safeguard against unidentified risk arising from banking activity. Banks shall establish and release these provisions on the basis of an assessment of such risk, taking into consideration in particular the amount of claims and off balance sheet commitments.
2. The annual charge to the general risk provisions referred to in para. 1 shall amount to:
 - 1) not more than 1.5 % of the value of outstanding loans and cash advances, this value being reduced by the amount of loans and cash advances classified, pursuant to separate regulations, as a "loss" as at the end of the previous financial year,

- 2) not more than the appropriation as performed in the current fiscal year from the previous year's earnings to the general risk reserve referred to in Art. 127, para. 2, subpara. 2, point a.
3. The provisioning charges referred to in para. 2, shall be performed not more frequently than once a month in equal sums. By the time the provision to the general risk reserve is performed in the current financial year the provisioning base may be calculated under the anticipated or proposed charges included in the financial plan.
4. A bank shall release its general risk provisions where it considers that the circumstances justifying their maintenance no longer apply.

CHAPTER 11

BANKING SUPERVISION

Article 131

1. The activity of banks, branches and representative offices of foreign banks, as well as of branches and representative offices of credit institutions, shall be subject to supervision exercised by the Polish Financial Supervision Authority, the scope and principles of such supervision being set out in the present Act and the Act of 21 July 2006 on the Financial Market Supervision.
2. Supervision of the activity of a branch or representative office of a foreign bank in Poland, and of a branch or representative office of a domestic bank abroad, may be performed on terms laid down in an agreement between the Polish Financial Supervision Authority and the competent supervisory authorities, these terms including the scope of examinations and procedure for their performance.
3. Pursuant to the provisions of the agreement referred to in para. 2, the Polish Financial Supervision Authority may provide information concerning a bank to the banking supervision agency of another country, where:
 - 1) this will not prejudice the economic interests of the Republic of Poland,
 - 2) it is ensured that the information provided will be utilised solely for the purposes of banking supervision,
 - 3) it is guaranteed that the information provided may be transmitted to parties outside the agency of banking supervision solely with the prior consent of the Polish Financial Supervision Authority.
- 3a. Where the competent supervisory authorities refuse to conclude an agreement referred in para. 2 or, if such agreement has been concluded, fail to comply with its provisions, *inter alia*, fail to provide information requested by the Polish Financial Supervision Authority within the specified time-limit or refuse to provide such information, the Polish Financial Supervision Authority may notify the European Banking Authority of this fact.
- 4-6 (repealed).
7. (repealed).

Article 131a

1. Banks are required to make payments due to banking supervision calculated as a product of total assets of the bank and a rate not exceeding 0.024 %.
2. Liabilities arising from payments for financing costs of the supervision, referred to in para. 1, are subject to execution under provisions related to administrative enforcement proceedings.
3. The President of the Council of Ministers shall specify by regulation date of payments, amounts and the way the payments shall be calculated, as referred to in para. 1, taking into consideration the efficiency the exercised supervision to be ensured.
4. In the case of failure to keep the deadline of payment, as established pursuant to para. 3, statutory interest shall be charged.

Article 132

The Minister of Finance or the Minister of State Treasury may apply to the Polish Financial Supervision Authority for implementation of the supervisory measures or sanctions referred to in Art. 133 and Art. 138.

Article 133

1. The objective of the supervision is to ensure:
 - 1) the safety of funds held on bank accounts,
 - 2) compliance by the banks with the provisions of the present Act, the Act on Narodowy Bank Polski, their articles of association, and the decision on granting authorisation to establish those banks.
 - 3) compliance of banks' activity carried out in accordance with Art. 70 para. 2 of the Act on Trading in Financial Instruments of July 29, 2005 with provisions of that Act, this Act and the articles of association.
- 1a. In the exercise of its tasks, the Polish Financial Supervision Authority shall consider guidelines and recommendations from the European Banking Authority. In the event where guidelines and recommendations from the European Banking Authority are not considered, the Polish Financial Supervision Authority shall provide reasons for not taking such guidelines and recommendations into consideration.
2. The measures taken in the exercise of banking supervision shall involve, in particular:
 - 1) assessment of the banks' financial standing, including reviewing the solvency, quality of assets, payment liquidity and financial results,
 - 2) reviewing the quality of bank management system, in particular the risk management and internal control systems,
 - 3) reviewing loans, cash advances, letters of credit, bank guarantees and sureties, as well as issued bank securities for compliance with the regulations in force in these respects,
 - 4) reviewing the security taken against loans and cash advances and timeliness of repayment,

- 5) reviewing compliance with the limits referred to in Art. 71 and Art. 79a, and assessment of the process of identifying, monitoring and control of concentration of exposures, including large exposures,
 - 6) reviewing the bank adherence to the standards of permissible risks in banking activity, specified by the Polish Financial Supervision Authority, the management of risk related to the conducted banking activity, including the adjustment of the risk identification and monitoring processes, as well as risk reporting, to the type and extend of activities conducted by the bank,
 - 7) assessment of estimating, maintaining and reviewing the internal capital.
3. Inspection activities shall be carried out by employees of the Office of the Financial Supervision Authority, who ought to produce the official identification card and provide the authorisation granted by the Chairperson of the Polish Financial Supervision Authority.
 - 3a. Provisions of Chapter 5 of the Act of 2 July 2004 on Freedom of Economic Activity shall apply to inspection of an entrepreneur's business activity .
 4. The Polish Financial Supervision Authority and persons carrying out banking supervision activities are not liable for damage resulting from legitimate actions or omission of action connected with the supervision exercised by the Polish Financial Supervision Authority over the activities of banks, branches and representative offices of foreign banks, and branches of credit institutions.

Article 134

1. Solely certified auditors satisfying the requirements stipulated by the Act of 7 May 2009 on Certified Auditors and Their Self-Regulatory Body, Entities Authorised to Audit Financial Statements, and on Public Supervision (Journal of Laws of 2009, No. 77, item 649, as amended), may be appointed to audit financial statements of a bank and also of a branch of a foreign bank.
2. Banks shall be required to submit to the Polish Financial Supervision Authority audited financial statements, on a consolidated and unconsolidated basis, together with the auditor's opinion and report, within 15 days of the financial statements being approved, enclosing a copy of the resolution or decision of the body approving the statements to the effect that the accounts have been approved.

Article 135

1. When irregularities are found in the audit review commissioned by a bank, the Polish Financial Supervision Authority may require the bank to commission to an indicated certified auditor examination of the correctness and accuracy of all financial statements prepared by the bank, inspection of the books of account, analysis of the loan portfolio and performance of other measures specified in Art. 133, para. 2. Where this audit review reveals irregularities, the cost of the review shall be borne by the bank.

2. The audit review specified in para. 1 may also be commissioned directly by the Polish Financial Supervision Authority. In this case, the cost of the audit shall be borne by the Polish Financial Supervision Authority, subject to the provision of para. 3.
3. Should an audit commissioned by the Polish Financial Supervision Authority reveal irregularities, the cost of the audit shall be borne by the bank.
4. Taking into account the necessity of maintaining particular security measures, in appointing a certified auditor for the audit review of a bank's financial statement specified in para. 2, the provisions of the Public Procurement Law of 29 January 2004 (Journal of Laws of 2014, item 907, as amended) shall not apply.

Article 136

1. The certified auditor performing an audit of a bank's financial statements or the audit referred to in Art. 134 and Art. 135 shall be required to notify the Polish Financial Supervision Authority immediately of any facts disclosed during their reviews which indicate:
 - 1) the commission of a criminal offence,
 - 2) a contravention of provisions regulating banking activity,
 - 3) a contravention of sound banking practice or other risk jeopardising the interests of the bank's customers,
 - 4) the possibility that a negative opinion will be expressed on the bank's financial statements, or that the expression of an opinion will be disclaimed.
2. In taking the actions referred to in Art. 135, para. 2, the auditors shall be governed by the regulations applicable to bank supervisors taking such actions.
3. The provisions of para. 1 shall apply *mutatis mutandis* to auditors performing audits of the financial statements of undertakings having close links to the bank.

Article 137

The Polish Financial Supervision Authority:

- 1) shall specify, by resolution, the scope of information referred to in Art. 22a, para. 2, and a list of information and documents referred to in Art. 22b, para. 2,
- 1a) shall specify, by resolution, a list of documents referred to in Art. 6a para. 5, subpara. 1,
- 2) shall specify, by resolution, a list of the documents referred to in Art. 31, para. 2, subpara. 3,
- 3) may establish mandatory standards of bank liquidity and other standards regulating permissible risks in banking activity,
- 4) may specify, by resolution, detailed principles for managing risk related to the activity referred to in Art 6a–6d,
- 5) may issue recommendations related to good practices of sound and prudent bank management.

Article 137a

For the purposes of examination of the banks' compliance with standards and limits specified by the Act, the amounts expressed in foreign currencies as defined in the provisions of the foreign exchange law shall be converted into zloty, and the exchange-rate indexed amounts shall be calculated at the mid-rate published by Narodowy Bank Polski and ruling on the date of the examination.

Article 138

1. In performance of its supervisory responsibilities, the Polish Financial Supervision Authority may issue recommendations to banks, these involving, in particular:
 - 1) taking the necessary measures to restore payment liquidity or to achieve and observe the standards referred to in Art. 137,
 - 2) increasing own funds,
 - 3) abandoning particular forms of advertising,
 - 4) development and implementation of procedures which shall ensure maintenance, updated assessment and review of the internal capital and operation of the bank management system,
 - 5) implementation of special rules for creating provisions for banking risk or charges to provisions for depreciation of assets or special treatment of assets while calculating capital requirements,
 - 6) limitation of the banking activity risk.
2. The Polish Financial Supervision Authority may order a bank to cease payments from net earnings or refrain from opening organisational units until such time as the payment liquidity is restored or the bank achieves the standards referred to in Art. 137.
3. Where it is found that a bank is failing to comply with the recommendations determined in para. 1, or with the orders referred to in para. 2, or where the bank's activity is in contravention of the law or the bank's articles, or jeopardises the interests of bank account holders, the Polish Financial Supervision Authority may, after prior written warning notice:
 - 1) apply to the appropriate management body of the bank for the discharge of the president, vice president or other member of the management board directly responsible for the irregularities noted,
 - 2) suspend from office the members of the management board referred to in subpara. 1 pending the adoption of a resolution on the application for their discharge at the next meeting of the supervisory board; the suspension from office shall involve such persons being excluded from making decisions on behalf of the bank in respect of its rights and obligations related to assets,
 - 3) limit the scope of banking activity or the activity of its organisational units,
 - 3a) impose a financial penalty on the bank of up to 10% of its income indicated in the last audited financial statement, and, in absence of such statement – a financial penalty of up to 10% of the projected income determined on the basis of the bank's economic and financial standing, but not higher than 10,000,000 zloty; the provisions of Art. 141, paras. 4 and 5 shall apply *mutatis mutandis*,

- 4) revoke authorisation to establish a bank and decide about the bank's liquidation; the provisions of Art. 147, para. 3, and Art. 153-156 shall apply *mutatis mutandis*.
- 3a. A decision of the Polish Financial Supervision Authority on restriction of the scope of a bank's activity may contain conditions and time limits.
4. The Polish Financial Supervision Authority may also suspend from office a member of the management board in the case where:
 - 1) charges were brought against that person in criminal proceedings or in fiscal proceedings,
 - 2) that person has caused major financial losses for the bank.The provisions of para. 3, subpara. 2 shall apply *mutatis mutandis*.
5. The Polish Financial Supervision Authority shall dismiss a member of the bank management board in the event of that person's valid conviction of the offence described in Art. 22b, para. 3, subpara. 1.
6. A bank's activities may also be restricted in scope or the authorisation to create a bank may be revoked where it is found that the bank:
 - 1) no longer fulfils the conditions laid down in the authorisation,
 - 2) was granted the authorisation on the basis of false documents or untrue statements, or through other unlawful actions,
 - 3) has not engaged in banking activity for over 6 months,
 - 4) has become the subsidiary undertaking of persons who, due to the provisions of law in force at the place of their residence or registered office, or due to their links to other parties, prevent the Polish Financial Supervision Authority from performing effective supervision of the bank,
 - 5) does not fulfil requirements specified in Chapter 11b.
- 6a. The Polish Financial Supervision Authority shall revoke authorisation to establish a branch of a foreign bank if the competent supervisory authorities of the country where the foreign bank has its registered office or place of management have revoked authorisation for that bank to conduct banking activities.
- 6b. Prior to revoking the authorisation to establish a branch of a foreign bank, the Polish Financial Supervision Authority shall seek opinion of the competent supervisory authorities of the country where the foreign bank has its registered office or place of management, if the agreement referred to in Art. 131, para. 2, provides for seeking such an opinion. Should it be necessary to revoke the authorisation immediately, the Polish Financial Supervision Authority may refrain from seeking that opinion.
- 6c. The Polish Financial Supervision Authority shall notify the competent supervisory authorities of the foreign bank of revocation of the authorisation referred to in para. 6a.
- 6d. The Polish Financial Supervision Authority shall notify immediately the competent supervisory authorities of the state where a branch of a domestic bank operates of the revocation of authorisation to create the domestic bank.
7. Measures undertaken under the supervision cannot breach contracts concluded by the bank, except for the agreements
 - 1) referred to in Art. 92a, paras. 1 and 3, and Art. 92d,

- 2) concluded by a domestic bank with entities operating in the same holding company and the agreements concluded by a domestic bank with other closely linked entities as well as the agreements referred to in Art. 6a, paras. 1 and 7.

Article 138a

1. The Polish Financial Supervision Authority may:
 - 1) obligate a bank to increase its own funds,
 - 2) impose on a bank additional capital requirement exceeding the value resulting from the capital requirement calculated in accordance with detailed principles specified by the Polish Financial Supervision Authority based on the resolution referred to in Art. 128, para. 6, subparas. 1 and 3-7, in particular in the case of negative findings made during the execution of activities under the banking supervision, including these related to the operation of risk management and internal control systems or the identification, monitoring and review of exposure concentration, including large exposures.
2. The Polish Financial Supervision Authority may also impose an additional capital requirement in the case where the internal capital is not adjusted to the amount of risk present in the banking activity or other significant irregularities in the risk management have been recorded.

Article 138b

1. When taking a decision on the application of measures specified in Art. 138a, para. 1, subpara. 2 and para. 2 during the exercise of supervision on a consolidated basis, the Polish Financial Supervision Authority shall cooperate with the competent supervisory authorities exercising supervision of the entities operating in the same holding company in which the bank operates and strive to achieve a common position on the solution and assessment of the reasons for this position.
2. The Polish Financial Supervision Authority shall issue the decision referred to in para. 1 within four months from the submission to the competent supervisory authorities exercising supervision of the entities operating in the same holding company in which the bank operates of the proposal of the position on the assessment of the holding risk.
3. In the absence of a common position, the Polish Financial Supervision Authority may consult the European Banking Authority. The Polish Financial Supervision Authority shall consult the European Banking Authority also at the request of the competent supervisory authorities referred to in para. 2.
4. If the Polish Financial Supervision Authority and the competent supervisory authorities have not come to an agreement within the time-limit referred to in para. 2, the Polish Financial Supervision Authority, while taking a decision referred to in para. 1, shall take into account opinions expressed by these authorities and set out reasons for material derogations from the opinions of the competent supervisory authorities, received within the time-limit referred to in para. 2.
5. In the case of consultations referred to in para. 3, the Polish Financial Supervision Authority, when issuing the decision referred to in para.1, shall take into account such

an opinion and set out reasons for material derogations from this opinion. While issuing the decision, the Polish Financial Supervision Authority may specify therein the conditions and dates for the application of measures referred to in Art. 138a, para. 1, subpara. 2 and para. 2.

- 5a. If prior to the expiry of the time-limit referred to in para. 2, the competent supervisory authorities submit the case to the European Banking Authority under Art. 19 of Regulation 1093/2010, the Polish Financial Supervision Authority shall stay the proceedings until the European Banking Authority takes a decision under Article 19 para. 3 of this regulation.
6. Where the competent supervisory authority exercising supervision on a consolidated basis over a domestic bank operating in one of the holding companies referred to in Art. 141f, para. 1, subparas. 2–5 seeks an opinion of the Polish Financial Supervision Authority concerning the application of the measure specified in Art. 138, para. 2, the provisions of paras.1–4 shall apply *mutatis mutandis*.
7. The Polish Financial Supervision Authority shall assess, once a year, the reasons for and results of issuing the decision referred to in para. 1. The reasons for and results of the decision issued in the absence of a common position may be assessed also when it is sought by the competent supervisory authority.

Article 139

1. Banks, and branches and representative offices of foreign banks in Poland, shall be required to:
 - 1) notify the Polish Financial Supervision Authority of the commencement and cessation of business activity; this shall also apply to the commencement and cessation of business activity by a domestic branch of a domestic bank,
 - 2) enable authorised persons to perform the measures determined in Art. 133, para. 2, in particular making available to them books of account, balance sheets, records, plans, reports and other documents, and allowing them, on receipt of a written request, to make copies of such documents and other information media, and also give explanations as required by such persons,
 - 3) advise the Polish Financial Supervision Authority immediately of the measures that will be taken to remove any irregularities noted during the performance of supervisory activity, and comply with any decisions and recommendations issued.
2. The provisions of Art. 138 shall apply *mutatis mutandis* to the exercise of supervision with respect to the activity of a branch of a foreign bank.

Article 140

A domestic bank that has opened a branch or representative office abroad shall be required to notify the Polish Financial Supervision Authority of the commencement and cessation of business activity by such a branch or representative office.

Article 140a

1. Prior to issuing an authorisation to establish a domestic bank, or the authorisation referred to in Art. 25, the Polish Financial Supervision Authority shall seek the opinion of the competent supervisory authorities of the relevant Member State, where that bank would be:
 - 1) a subsidiary undertaking of:
 - a) a credit institution,
 - b) a parent undertaking of a credit institution,
 - c) an insurance company, reinsurance company or an investment firm which were granted appropriate authorisations to carry out business activity in a Member State,
 - d) parent undertaking of an insurance company, reinsurance company or an investment firm which were granted appropriate authorisations to carry out business activity in a Member State,
 - 2) controlled by the same natural or legal persons that control a credit institution, insurance company, reinsurance company or an investment firm which were granted appropriate authorisations to carry out business activity in a Member State.
2. The Polish Financial Supervision Authority shall seek the opinion of competent supervisory authorities when assessing the persons involved in management of other undertaking of the same group as defined by Art. 3, para. 7 of the Act on Supplementary Supervision. The Polish Financial Supervision Authority and other competent supervisory authorities in Poland shall transfer to each other and to other competent supervisory authorities any information indispensable for granting authorisation and for current supervision purposes.

Article 140b (repealed).

Article 140c

1. The Polish Financial Supervision Authority shall notify the European Commission or the European Banking Authority of each case where the authorisation to establish a domestic bank or a branch of a foreign bank loses its binding force or is revoked.
2. In the notification referred to in para. 1, the Polish Financial Supervision Authority shall indicate the reasons for the loss of binding force or revocation of the authorisation to establish a domestic bank or branch of a foreign bank.

Article 141

1. In the event of a bank failing to comply with recommendations issued in response to its conduct of business activity in contravention of legislation or the bank's articles of association, or of a refusal to furnish the explanations and information referred to in Art. 139, or in the event of a bank failing to fulfil the requirements specified in Chapter 11b, the Polish Financial Supervision Authority may impose financial penalties on members of the management board up to the equivalent of three months gross remuneration of the person so penalised, calculated with reference to that

person's remuneration in the last three months prior to the date the penalty was imposed.

2. Such penalties cannot be imposed where over six months have elapsed since banking supervision became aware of the deed described in para. 1, or over two years have elapsed since the deed took place.
3. The imposition of a financial penalty shall not impede implementation of other measures provided for under this Chapter.
4. The Polish Financial Supervision Authority shall forward the exacted amounts due to financial penalties to the Bank Guarantee Fund.
5. The penalties referred to in para. 1 shall be subject to enforced collection pursuant to the procedures envisaged in the regulations on enforcement proceedings in the administration.

CHAPTER 11a

SUPERVISION OF BRANCHES OF CREDIT INSTITUTIONS

Article 141a

1. Where a credit institution pursuing its business in the Republic of Poland via a branch or engaging in cross-border activity fails to comply with the provisions of Polish law, the Polish Financial Supervision Authority:
 - 1) shall call on that institution, in writing, to adhere to the provisions of Polish law, and shall set an appropriate time limit for removing the irregularities noted,
 - 2) where the time limit referred to in subpara. 1 expires with no remedy having been effected, shall notify the competent supervisory authorities of the home Member State of the irregularities noted.

2. Where, despite the measures taken by the competent supervisory authorities of the home Member State, a branch of a credit institution persists in failing to adhere to the provisions of Polish law, or where the measures taken proved inadequate to the breach of law that had occurred or it is impossible to apply them in the Republic of Poland, the Polish Financial Supervision Authority may implement the measures specified in Art. 138, para. 3, subparas. 1 and 3, and Art. 141, and with respect to liquidity — those specified in Art. 138, para. 1, subpara. 1, and para. 2. The Polish Financial Supervision Authority shall notify the European Commission or the European Banking Authority when these measures have been applied.
- 2a. Where a credit institution pursuing its business in the Republic of Poland via a branch fails to comply with the provisions of Chapters II and III of the Act of 19 August 2011 on Payment Services, the Polish Financial Supervision Authority:
 - 1) shall call on that institution, in writing, to adhere to those regulations and shall set an appropriate time limit for removing the irregularities noted;

- 2) where the time limit referred to in subpara. 1 expires with no remedy having been effected, it may apply the measures referred to in Art. 138, para. 3, subparas. 1, 3 and 3a and notify the competent supervisory authorities of the home Member State of the irregularities noted and the measures taken.
3. In emergencies, the Polish Financial Supervision Authority, with a view to the protection of depositors, may, before applying the procedures referred to in paras. 1 and 2, and with no need for a prior written warning notice, apply *mutatis mutandis* the measures referred to in Art. 138, para. 3, subparas. 1, 3 and 3a. The Polish Financial Supervision Authority shall immediately notify the European Commission or the European Banking Authority when these measures have been applied.
- 3a. In the cases referred to in paras. 2 and 3, the Polish Financial Supervision Authority shall notify competent supervisory authorities of the home Member State of supervisory measures taken with respect to a branch of a credit institution.
4. Provisions of Art. 127 para.3 of the Code of Administrative Proceedings shall not apply to the decisions of the Polish Financial Supervision Authority issued pursuant to paras. 2, 2a and 3.
5. Within 7 days of receiving a decision of the Polish Financial Supervision Authority referred to in para. 2, 2a or 3, the credit institution concerned may file a complaint against that decision with an administrative court.

Article 141b

1. On receipt from the competent supervisory authorities of a host Member State of information that a domestic bank performing operations within that State via a branch or by engaging in the cross-border activity is in contravention of the provisions of law in force in that host Member State, the Polish Financial Supervision Authority may take in respect of that bank the measures provided for under Art. 138, para. 3.
2. Provisions of Art. 127 para. 3 of the Code of Administrative Proceedings shall not apply to the decisions of the Polish Financial Supervision Authority issued pursuant to para. 1.
3. Within 7 days of receiving a decision of the Polish Financial Supervision Authority issued pursuant to para. 1, the domestic bank concerned may appeal against that decision to the administrative court.

Article 141c

1. Supervision of the activity of a credit institution pursuing its business in the Republic of Poland via a branch or by engaging in the cross-border activity shall be exercised, subject to the provisions of para. 2 herein, Art. 42c, para. 1 and Art. 141a, para. 2, by competent supervisory authorities of the home Member State.
2. The Polish Financial Supervision Authority shall be required to exercise supervision of branches of credit institutions with respect to their compliance with the requirement laid down in Art. 8.

3. Supervision of the activity of a domestic bank pursuing business in a host Member State via a branch or by engaging in the cross-border activity shall be exercised by the Polish Financial Supervision Authority.

Article 141d

1. Employees of the Office of the Financial Supervision Authority shall carry out inspections at branches of credit institutions with reference to the area of review specified in Art. 42c, para.1 and Art. 141c, para. 2, doing so in other areas on the basis of the authorisation referred to in para. 2.
2. The competent supervisory authorities of the home Member State may carry out inspections at the branches referred to in para. 1, doing so themselves or through the intermediary of persons authorised by them for that purpose, having first advised the Polish Financial Supervision Authority of the date and scope of such inspections.

Article 141e

1. The Polish Financial Supervision Authority and the competent supervisory authorities of the home Member State of a credit institution pursuing its business in the Republic of Poland via a branch or by engaging in the cross-border activity shall exchange information necessary to monitor the liquidity and solvency of such institutions, and also other information, in particular with regard to:
 - 1) the management and ownership structure of credit institutions,
 - 2) deposit guarantee principles,
 - 3) concentration of exposure,
 - 4) accounting principles,
 - 5) the administrative procedures applied,
 - 6) internal control system,
 - 7) the procedure and principles for carrying out inspections,
 - 8) measures taken as part of the supervision.
2. The Polish Financial Supervision Authority and the competent supervisory authorities of the host Member State in which a domestic bank carries out its business activity shall exchange information referred to in para. 1.
3. The exchange of information referred to in paras. 1 and 2 may also be based on an agreement concluded by the Polish Financial Supervision Authority with the competent supervisory authorities.

CHAPTER 11b

SUPERVISION ON A CONSOLIDATED BASIS

Article 141f

1. Supervision on a consolidated basis shall be applied to a domestic bank that operates in the following types of holding companies:
 - 1) domestic banking group (holding company),

- 2) foreign banking group (holding company),
 - 3) financial holding company,
 - 4) mixed-activity holding company,
 - 5) hybrid holding company.
2. The exercise of supervision over a bank on a consolidated basis shall not prejudice the application of the appropriate provisions of the present Act that regulate the activity of banks as undertakings subject to supervision on a solo basis.
3. The Polish Financial Supervision Authority may conclude agreements with the competent supervisory authorities of other countries specifying the scope of and procedure for cooperation in the exercise of supervision on a consolidated basis of banks operating in holding companies referred to in para. 1, supervision of significant branches of domestic banks and significant branches of credit institutions, and specifying the scope of and procedure for the operation of colleges referred to in para. 18. The Polish Financial Supervision Authority shall notify the European Banking Authority of the conclusion of such agreements and their contents. The provisions of Article 131, para. 3, subparas. 2 and 3 shall apply *mutatis mutandis*.
- 3a. For the purpose of ensuring the efficiency of supervision on a consolidated basis, the Polish Financial Supervision Authority – under the agreements referred to in para. 3 and having regard to Article 28 of Regulation 1093/2010 – may delegate its tasks to the competent supervisory authorities of other countries or take over tasks of the competent supervisory authorities of other countries, so that the authority exercising supervision over a parent undertaking may efficiently exercise tasks relating to supervision on a consolidated basis over a subsidiary undertaking. The agreements shall define in particular:
- 1) the scope of the delegated tasks;
 - 2) the field of application of Polish law and the law of a member state relating to the delegated tasks;
 - 3) the obligation of the competent supervisory authorities of other countries for keeping the Polish Financial Supervision Authority informed on supervisory activities taken and their results;
 - 4) the conditions and procedure for amending the scope of the delegated tasks and their revocation.
- 3b. The revocation of the delegated tasks shall take place in particular where due to a change of the facts the undertaking defined in the agreement referred to in para. 3a shall cease to be a subsidiary undertaking of the parent undertaking over which the competent supervisory authorities exercise supervision.
- 3c. The agreements referred to in para. 3a may also specify the principles of joint execution of tasks by the Polish Financial Supervision Authority and the competent supervisory authorities.
- 3d. The Polish Financial Supervision Authority may take over, under the agreements referred to in para. 3a, only such tasks from the competent supervisory authorities which comply with the objectives and tasks relating to supervision as defined in statutory law.

- 3e. Prior to the agreement referred to in para. 3a being concluded, the Polish Financial Supervision Authority shall provide the subsidiary undertaking defined in this agreement with information relating to:
- 1) the intention for the conclusion of the agreement,
 - 2) the draft contents of the agreement,
 - 3) the competences of the competent supervisory authorities with regard to the tasks which are to be delegated to these authorities,
 - 4) the review procedures to decisions taken by the competent supervisory authorities – in order to enable this subsidiary undertaking to express its opinion.
- 3f. The Polish Financial Supervision Authority shall publish the agreement referred to in para. 3a on its Internet site immediately after conclusion thereof and point to the undertaking defined in the agreement.
- 3g. Where the competent supervisory authorities refuse to conclude the agreement referred in para. 3, or if such agreement has been concluded, when they fail to comply with provisions thereof – *i.a.* fail to provide information requested by the Polish Financial Supervision Authority within the specified time-limit or refuse to provide such information, the Polish Financial Supervision Authority may notify the European Banking Authority of this fact. The Polish Financial Supervision Authority may also notify the European Banking Authority of failing to provide information on the review procedures referred to in para. 3e, sub-para. 4 by the competent supervisory authorities.
- 3h. Where the implementation of the decision or another resolution of the competent supervisory authorities could put cautious and stable management of a bank at risk, the Polish Financial Supervision Authority may terminate the agreement referred to in para. 3a and suspend the implementation of the decision or another resolution.
4. In the absence of the agreement referred to in para. 3, the Polish Financial Supervision Authority and the competent authorities that supervise credit institutions shall exchange, by means of cooperation, in particular, information necessary to exercise supervision on a consolidated basis, of significant branches of domestic banks and significant branches of credit institutions, and shall undertake activities specified in Art. 138a and 138b, subject to the provisions of Art. 131, para. 3, subparas. 2 and 3.
5. Provisions of the Act on Supplementary Supervision shall apply in the case where the domestic bank is a member of a financial conglomerate where the non-regulated parent undertaking as defined in the Act on Supplementary Supervision is a parent undertaking.
6. The supervision on a consolidated basis is exercised by:
- 1) the supervisory authority which has issued the authorisation for carrying out business activity by an institution, in the case where the original parent undertaking in a holding company is a parent institution in a Member State or an EU parent undertaking,
 - 2) the Polish Financial Supervision Authority in the case where a parent undertaking of a bank is a parent financial holding undertaking in a Member State, parent

- mixed financial holding company in a Member State, EU parent financial holding undertaking or EU parent mixed financial holding company;
- 3) the supervisory authority which has issued the authorisation for carrying out business activity by a credit institution in the case where a parent undertaking of a credit institution is a parent financial holding undertaking in a Member State, parent mixed financial holding company in a Member State, EU parent financial holding undertaking or EU parent mixed financial holding company;
 - 4) the supervisory authority which has issued the authorisation for carrying out business activity by a credit institution from the country where an EU parent financial holding undertaking, EU parent mixed financial holding company, parent financial holding undertaking in a Member State or parent mixed financial holding company in a Member State has its registered office in the case where an EU parent financial holding undertaking, EU parent mixed financial holding company, parent financial holding undertaking in a Member State or a parent mixed financial holding company in a Member State is a parent undertaking of a credit institution performing activities on the basis of an authorisation granted in the Member State;
 - 5) the Polish Financial Supervision Authority in the case where an EU parent financial holding undertaking, an EU parent mixed financial holding company, a parent financial holding undertaking in a Member State with its registered office in the Republic of Poland or a parent mixed financial holding company in a Member State with its registered office in the Republic of Poland is a parent undertaking of the domestic bank or the credit institution;
 - 6) the supervisory authority which has issued the authorisation for carrying out business activity by a bank or credit institution with the highest balance sheet total in the case where EU financial institutions with their registered offices in different Member States or non-regulated parent undertakings within the meaning of Article 3 subpara. 5 of the Act on supplementary supervision which have their registered offices in different Member States are parent undertakings of a bank or credit institution acting on the basis of authorisations granted in Member States in which these financial institutions or non-regulated parent undertakings have their registered offices;
 - 7) the supervisory authority which has issued the authorisation for carrying out business activity by a bank or credit institution with the highest balance sheet total – and the bank and credit institution are considered to be subsidiaries of an EU parent financial holding undertaking or EU parent mixed financial holding company in the case where a financial institution or non-regulated parent undertaking within the meaning of Article 3 subpara. 5 of the Act on supplementary supervision is a parent undertaking of the bank or credit institution acting on the basis of authorisations granted in Member States other than the Member State in which this financial institution or non-regulated parent undertaking has its registered office;

7. The competent supervisory authorities may agree that the criteria referred to in para. 6 subparas. 1-6 shall not apply if they are not appropriate due to the specificity of the bank, credit institutions or relative importance of their activities in Member States.
8. In the case referred to in para. 7, the competent supervisory authorities shall decide which of the authorities shall exercise supervision on a consolidated basis.
9. In order to make the arrangements referred to in para. 8 the competent supervisory authorities may consult an EU parent institution, EU parent financial holding undertaking, EU parent mixed financial holding company or a credit institution or a bank with the highest balance sheet total, referred to in para.6.
10. The Polish Financial Supervision Authority shall notify the European Commission and the European Banking Authority of its exercise of supervision on a consolidated basis in accordance with the arrangements referred to in para. 8.
11. The Polish Financial Supervision Authority shall notify an EU parent institution, EU parent financial holding undertaking, EU parent mixed financial holding company or a bank with the highest balance sheet total, referred to in para. 6, of its exercise of supervision on a consolidated basis.
12. The Polish Financial Supervision Authority shall notify the competent authorities of the home state or the competent authorities that supervise a credit institution of its desire to start cooperation regarding supervision of a important branch of this credit institution.
13. If the Polish Financial Supervision Authority and the competent authorities fail to reach an agreement within 2 months from the date of the receipt of information referred to in para. 12 by the competent supervisory authorities, the Polish Financial Supervision authority, taking into account the opinion expressed by the competent supervisory authorities, shall issue – within the next two months – a decision on recognizing a branch of the credit institution as important, provided that its business activity in the Republic of Poland is significant, in particular, when it satisfies at least one of the following conditions:
 - 1) the share in the overall value of monetary deposits is higher than 2%,
 - 2) the number of branch customers is significant in terms of the scale of banking operations carried out by this branch,
 - 3) the suspension or termination of activities by the parent credit institution may pose a threat to the stability of the financial system or the safety of the functioning of payment, clearing and settlement systems in the Republic of Poland.
14. While issuing the decision referred to in para. 13, the Polish Financial Supervision Authority shall take into account the opinion of the competent supervisor authority and shall set out reasons for material derogations from that opinion received within two months from the receipt of information referred to in para. 12.
15. The credit institution pursuing its business in the Republic of Poland shall receive the decision referred to in para. 13 via its significant branch, significant branch of the credit institution and the competent supervisory authorities of the Member States concerned.

16. The decision referred to in para. 13 shall not affect the rights and obligations of the competent supervisory authorities in respect of that branch.
- 16a. If the competent supervisory authority submits the case, within two months from the receipt by the competent authorities of information referred to in para. 12 to the European Banking Authority under Art. 19 of Regulation 1039/2010, the Polish Financial Supervision Authority shall stay the proceedings until the European Banking Authority takes a decision under Article 19 para. 3 of this regulation.
17. In the event of the receipt of information concerning the operation of a significant branch of a domestic bank in a host State, in particular a branch, for which:
 - 1) the share in the overall value of monetary deposits in the host State of that branch is higher than 2%, or
 - 2) the number of that branch customers is significant in terms of the scale of banking operations carried out by that branch, or
 - 3) the suspension or termination of activities by the domestic bank may pose a serious threat to the stability of the financial system or the safety of the functioning of the payment, clearing and settlement systems in the host State.
 - the Polish Financial Supervision Authority shall immediately begin, not later than two months from the receipt of the information about the operation of that branch, cooperation with the competent supervisory authorities of that State in accordance with para. 18, and shall submit, in particular, information necessary to exercise supervision by the competent supervisory authorities, subject to the provisions of Art. 131, para. 3, subparas. 2 and 3.
18. In order to exercise supervision of banks operating in holding companies referred to in para.1 on a consolidated basis, the Polish Financial Supervision Authority shall establish colleges of competent supervisory authorities, further referred to as the "colleges". The Polish Financial Supervision Authority shall chair such colleges and ensure cooperation with the competent supervisory authorities from any third States, competent supervisory authorities from host States hosting an important branch of a domestic bank and central banks ,where it is necessary for the performance of statutory tasks by those banks with the aim of ensuring appropriate cooperation and exchange of the information referred to in para. 17.
19. The Polish Financial Supervision Authority shall decide on the participation and operation of the competent supervisory authorities in colleges, as well as on the scope of, and the procedure for the functioning of colleges, after consultations with the competent supervisory authorities concerned. The Polish Financial Supervision Authority shall notify members of colleges of session dates, main issues on the agenda, activities that need to be analysed or undertaken, and of applied supervisory measures.
20. The Polish Financial Supervision Authority, in the course of planning and coordinating activities with a view to taking a decision on the exercise of supervision on a consolidated basis, shall consider the legitimacy of the activities of the competent supervisory authorities, including supervisory measures and practices of their

application, and also possible effects of such activities on the stability of financial systems in the Member States concerned.

21. Subject to the obligation of professional secrecy, the Polish Financial Supervision Authority shall notify the European Banking Authority of activities of the college, in particular, of emergency situations, and shall provide it with information that is particularly important for the convergence of supervisory practices.

Article 141g

1. Domestic banks operating in the holding companies, referred to in Art. 141f, para. 1, shall be required to forward immediately to the Polish Financial Supervision Authority, but not later than within 30 days from the day of the approval:
 - 1) by a general meeting, its consolidated financial statements, together with the certified auditor's opinion and report,
 - 2) financial statements of subsidiary undertakings and the financial statements of undertakings, which the bank has close links to, that have not been included in the consolidated financial statements drawn up by the bank; the financial statements should be forwarded together with the certified auditor's opinion and report.
2. Domestic banks operating in holding companies, referred to in Art. 141f, para. 1, subparagraphs 2-5, shall also be required to forward immediately to the Polish Financial Supervision Authority, but not later than within 90 days from the day of approval, consolidated financial statement of the original parent undertaking of the holding company, or consolidated financial statements drawn up at the highest level of consolidation.
3. Documents referred to in paras. 1 and 2, drawn up in foreign languages, shall be forwarded by the bank together with their certified translation into Polish.
4. Provisions of paras. 1 and 2 shall not apply to undertakings that, pursuant to the accounting regulations, are not required to draw up consolidated financial statements.
5. The Polish Financial Supervision Authority may exempt the bank, at its justified request, from the requirements specified in paras. 1-3, or limit them.
6. The financial statements for the purposes related to the exercise of supervision on a consolidated basis shall be drawn up in accordance with the applicable accounting regulations.
7. If the holding companies referred to in Art. 141f, para. 1 include ancillary banking services undertakings, data included in the financial statements of such undertakings shall be included in the consolidated financial statements drawn up by the parent undertaking.

Article 141h

1. In order to verify the obtained information, inspectors of banking supervision and other persons authorised by the Polish Financial Supervision Authority may perform inspection activities subject to the provisions of paras. 2 and 3, at undertakings operating in holding companies referred to in Art. 141f, para. 1 and in ancillary banking services undertakings that provide services for undertakings operating in

such holding companies. The provision of Art. 139, para. 1, subpara. 2 shall apply *mutatis mutandis*.

2. (repealed).

3. The Polish Financial Supervision Authority may request from:

1) a bank – parent undertaking in a domestic banking group, or

2) a parent undertaking of one of the holding companies referred to in Art.141f, para. 1, subparas. 3-5, where the undertaking has its registered office in the Republic of Poland

– to commission a certified auditor indicated by the Polish Financial Supervision Authority to review the financial standing of subsidiary undertakings or undertakings with close links to the domestic bank operating in the holding company, where the Polish Financial Supervision Authority believes there are doubts as to the accuracy of the approved annual financial statements, or where it is necessary to review a business relationship with another undertaking. The cost of the audit so commissioned shall be borne by the bank or the parent undertaking of the holding company, as relevant, subject to the provision of para. 4.

4. Where an audit commissioned by the Polish Financial Supervision Authority fails to confirm the doubts referred to in para. 3, the cost of the audit shall be borne by the Polish Financial Supervision Authority.

Article 141i

1. A domestic bank that is the parent undertaking in a domestic banking group and a parent undertaking, having its registered office in the Republic of Poland, in a financial holding company, a mixed-activity holding company or a hybrid holding company shall be obliged to ensure the proper operation of internal control of data and information required in connection with the exercise of supervision on a consolidated basis, and also to provide all relevant information and explanations concerning its activity and the activity of undertakings constituting such a group, when so required by the Polish Financial Supervision Authority or persons authorised by the Polish Financial Supervision Authority.

2. Persons who are members of the management board of the parent undertaking of a financial holding company should warrant sound and prudent management of that undertaking.

3. A domestic bank operating in a mixed activity holding company shall be required to have at its disposal appropriate internal control mechanisms and risk management procedures, including reporting and accounting procedures, in order to identify, measure, monitor and control the bank's transactions with the parent undertaking of the holding company or a subsidiary undertaking in the holding company.

4. The domestic bank referred to in para. 3 shall be required to advise the Polish Financial Supervision Authority of any significant transaction within the meaning of the Act on Supplementary Supervision with the undertakings referred to in para. 3, except transactions related to the exposures defined in Art. 71.

Article 141j

1. The Polish Financial Supervision Authority shall specify, by resolution, the scope and procedure for including banks' activities in the holding companies referred to in Art. 141f, para. 1, subparas. 1-3, in the calculation of the own funds, capital requirements, the solvency ratio, and exposure concentration limits.
2. The Polish Financial Supervision Authority may specify, by resolution, the scope and procedure for including banks' activities in holding companies referred to in Art. 141f, para. 1, subparas. 4 and 5 in the calculation of the own funds, capital requirements, the solvency ratio, and exposure concentration limits.

Article 141k

1. An undertaking having its registered office in the Republic of Poland and operating in one of the holding companies referred to in Art. 141f, para. 1, subparas. 2 and 3, whose parent undertaking has its registered office in a Member State, shall forward, at the request of the parent undertaking, information necessary to draw up the consolidated financial statements.
2. An entity having its registered office in the Republic of Poland and operating in one of the holding companies referred to in Art. 141f, para. 1, subparas. 2-5, which is not under the supervision of Polish supervisory authorities, shall be required to provide any information, at the request of the competent supervisory authorities responsible for the supervision of a credit institution or a financial institution operating in the holding company, and shall be obliged to enable such authorities to verify the information provided.
3. Where a domestic bank operates in a foreign banking group or a financial holding company whose parent undertaking has its registered office in a state other than a Member State and there is no agreement referred to in Art. 141f, para. 3 the Polish Financial Supervision Authority shall check if the domestic bank is subject to the supervision on a consolidated basis complying with the principles set up in the present chapter.
4. The Polish Financial Supervision Authority shall take measures referred to in para. 5 ex officio or upon application of the parent undertaking in a holding company or upon application of a regulated undertaking, as defined in Art. 3, subpara. 4 of the Act on Supplementary Supervision, which was granted the authorisation to pursue business in a Member State.
5. Where as a result of the conducted checking procedure it turns out that the domestic bank referred to in Art. 141f, para. 3 is not subject to the supervision on a consolidated basis complying with the principles defined in the present chapter, the provisions set up in the present chapter shall apply.

Article 141l

1. The Polish Financial Supervision Authority shall maintain a register of the following holding companies:
 - 1) domestic banking group (holding company) ,

- 2) foreign banking group (holding company) in which a domestic bank operates,
 - 3) financial holding company in which a domestic bank operates,
 - 4) hybrid holding companies.
2. Applications to enter a holding company into an appropriate register and updates of the entry shall be submitted to the Polish Financial Supervision Authority:
 - 1) by a domestic bank, where it is a parent undertaking in a holding company, or where the original parent undertaking of the holding company in which the domestic bank operates has its registered office abroad,
 - 2) by the parent undertaking of a domestic bank, where it is the original parent undertaking in the holding company in which the domestic bank operates and where it has its registered office in the Republic of Poland.
 3. The Polish Financial Supervision Authority shall specify, by resolution, the procedure to maintain lists of holding companies, the procedure to submit applications and update entries of holding companies and a template of an application form to enter a holding company into the register.
 4. The competent supervisory authorities in Member States shall be notified by the Polish Financial Supervision Authority of changes in the registers referred to in para. 1.

CHAPTER 12

BANK REORGANISATION PROCEEDINGS, LIQUIDATIONS AND BANKRUPTCIES

A. Reorganisation proceedings

Article 142

1. In the event of a bank suffering a net loss, being threatened with such a loss or finding itself in danger of insolvency, the management board shall immediately advise the Polish Financial Supervision Authority to this fact and shall submit a reorganisation programme ensuring its implementation.
2. The Polish Financial Supervision Authority may set the bank the time limit by which the programme referred to in para. 1 is to be drawn up, and may require such a programme to be supplemented or revised.
3. Should the bank abandon the implementation of the measures referred to in para. 1, the Polish Financial Supervision Authority may obligate the bank to institute reorganisation proceedings.
4. In the period in which a bank implements the programme of reorganisation proceedings, the bank's earnings shall be first used to cover losses and then to increase its own funds.

Article 143

1. Where a programme of reorganisation proceedings is inadequate or the implementation thereof is deficient, the Polish Financial Supervision Authority may:
 - 1) (repealed),
 - 2) prohibit or restrict the extension of loans and cash advances to the bank's shareholders (members), members of the management and supervisory boards, and staff,
 - 3) require the bank management board to convene an extraordinary general meeting of shareholders (a general meeting) to examine the bank's position, adopt a decision on absorbing any net losses incurred and pass other resolutions, including the increase of the bank's own funds within a period no longer than six months.
 - 4) prescribe the reduction or withdrawal of certain variable components of remuneration of persons holding managerial positions in a bank, including those falling at the time of holding a managerial position at a bank, for no more than the last three years.
2. The extraordinary general meeting should be convened by the management board within 14 days; should it fail to do so, the meeting may be summoned by the Polish Financial Supervision Authority. The costs of convening and holding the meeting shall be borne by the bank.
- 2a. Intervals in a general meeting should not exceed 14 days in total.
3. The prohibitions and requirement referred to in para. 1 shall not be subject to appeal.

Article 144

1. Subject to Art. 20a of the Act referred to in Art. 105, para. 1, subpara. 2 point h, the Polish Financial Supervision Authority may decide on the appointment of a trustee to supervise performance of the reorganisation programme by the bank.
2. The trustee shall be entitled to participate in meetings of the bank's management bodies and to obtain all information necessary for the discharging of his/her duties.
3. The trustee shall be entitled to file objections to resolutions and decisions of the bank management and supervisory boards. A declaration of the intention to file an objection, put forward at a meeting of the supervisory board or the management board shall stay performance of the resolution or decision.
- 3a. The objection referred to in para. 3 shall be filed by the trustee with a commercial court of appropriate jurisdiction within 14 days of the resolution or decision being adopted.
- 3b. Where the objection is not filed with the court within the period referred to in para. 3a, or the trustee states he or she shall not file any objection, the resolution or decision referred to in para. 3 may be executed.
4. The trustee may appeal against the resolution of a general meeting of shareholders or general meeting of a cooperative bank, should this prejudice the interests of the bank. In such cases, the trustee shall enjoy the rights provided for under Art. 422 and Art. 424 of the Commercial Companies Code, and in respect of cooperative banks – under Art. 42 of the Cooperative Law.

5. Within 7 days of receiving a decision on the appointment of a trustee, the bank may appeal against this decision to the administrative court. Filing such an appeal shall not stay performance of the decision. The provisions of Art. 127, para. 3 of the Code of Administrative Proceedings shall not apply.
6. The duties of trustee may be performed by a person with professional qualifications and experience in the area of bank organisation and operating principles. The trustee may also be a legal person.
7. The trustee shall submit quarterly reports on his or her activity to the Polish Financial Supervision Authority, including the bank's management board assessment of the performance of the reorganisation programme.
8. The remuneration of the trustee shall be set by the Polish Financial Supervision Authority, at a level not exceeding the remuneration of the president of the bank to which the trustee has been appointed. The expenses involved in the performance of the duties of trustee shall be charged to the bank's operating expenses.
9. The Polish Financial Supervision Authority may dismiss a trustee supervising the implementation of a reorganisation programme by the bank where the trustee resigns from his or her duties, performs them incorrectly or due to other reasons that prevent the trustee from due performance of his/her duties.
10. A natural person acting as a trustee shall be entitled to 26 working days of annual leave pursuant to principles specified by the Act of June 26, 1974 - the Labour Code (Journal of Laws of 1998, No. 21, item 94, as amended) at times agreed upon with the Polish Financial Supervision Authority.
11. Period of acting as a trustee by a natural person shall be included in the period of employment and other periods which determine eligibility for employment rights. Social security and health insurance regulations shall apply to such persons unless such persons have been covered by social security and health insurance in relation to other titles.

Article 145

1. Where the bank's management board fails to submit a reorganisation programme as stipulated in Art. 142, para. 1, or where the performance of that programme proves ineffective, the Polish Financial Supervision Authority may decide on establishing receivership for the duration of the reorganisation programme. The establishing of receivership shall not affect the organisation and operation of the bank as a legal person, with the exception of the changes provided for under the present Act.
2. The receivership shall assume the power to pass resolutions and take decisions in all matters reserved for the bank's competent authorities and management bodies under the present Act and the bank's articles of association. On the day of establishing the receivership the supervisory board, subject to para. 4, shall be suspended, the members of the bank management board shall be dismissed *ex lege*, and proxies and powers of attorney granted prior to that day shall expire. While the receivership is in place, the decision-making powers of other management bodies of the bank shall be suspended.

- 2a. The receivership may balance the bank books and draw up a bank financial statement as of the day stipulated by the Polish Financial Supervision Authority and may pass a resolution to cover losses for the period ending on that day and losses from previous years.
3. The receivership shall also perform the tasks as specified in the decision on establishing the administration.
4. The supervisory board may file a complaint against the decision referred to in para. 1 with an administrative court within 7 days from the receipt of the decision. Filing such a complaint shall not stay performance of the decision. The provisions of Art. 127 para. 3 of the Code of Administrative Proceedings shall not apply.
5. The receivership shall draw up a reorganisation programme and agree the reorganisation programme with the Polish Financial Supervision Authority, administer performance of the programme, and report to the Polish Financial Supervision Authority and the bank's supervisory board on the results achieved under the programme at intervals of no less than 3 months.
6. The establishment of the receivership shall be recorded in the register applicable to the given bank.

Article 146

1. Where necessary, members of the receivership shall be granted unpaid leave from their place of employment for the duration of their duties.
2. The duration of such unpaid leave shall be included in the period of employment and other periods which determine eligibility for employment rights.
3. The remuneration of members of receivership shall be set by the Polish Financial Supervision Authority, at a level not exceeding the remuneration of members of the bank's previous management board. The expenses of the administration shall be borne by the bank.

B. Liquidation, takeover of a bank

Article 147

1. Where, after 6 months following the date of an extraordinary general meeting of shareholders convened in accordance with the procedure specified in Art. 143, para. 1, subpara. 3, the losses incurred by the bank exceed half of its own funds, the Polish Financial Supervision Authority may:
 - 1) decide on a takeover of a bank by another bank, with the agreement of the acquiring bank,
 - 2) withdraw the authorisation to establish a bank and liquidate it,
 - 3) in the case of a state bank — apply to the Council of Ministers for the bank to be put into liquidation.
2. The Polish Financial Supervision Authority may also take decision about the takeover of a bank by another bank or about the liquidation thereof within a period of time other than that specified in para. 1 where circumstances arose that the bank is

threatened with insolvency or that the sum of own funds thereof may decrease to such an extent that it would no longer meet the requirements which should be met while establishing a bank.

3. Within 7 days from the date the decision referred to in paras. 1 and 2 has been delivered, the bank's supervisory board may appeal against it to the administrative court. Filing such a complaint shall not stay execution of the decision, although neither disposal of the assets of a bank put into liquidation nor takeover of the bank's assets by an acquiring bank may be commenced prior to consideration of the complaint by the court. The provisions of Art. 127 para. 3 of the Code of Administrative Proceedings shall not apply.

Article 148

1. As of the day specified in the decision of the Polish Financial Supervision Authority on a bank to be taken over by another bank:
 - 1) the management board and the receivership of the bank being acquired shall be dissolved and the decision-making powers of its other management bodies shall be suspended, subject to the provision of Art. 147, para. 3,
 - 2) the acquiring bank shall assume administration of the assets of the acquired bank,
 - 3) proxies and powers of attorney issued by the acquired bank shall expire.
2. The acquiring bank shall publish twice its takeover decision in the national press and in *Monitor Sądowy i Gospodarczy* [the Court and Business Gazette], and shall call on the bank's creditors to come forward and submit their claims within 1 month of publication of the last notice. The latter requirement shall not apply to creditors with claims in respect of bank accounts. In the case of cooperative banks, it shall suffice to give notice in the local press and in *Monitor Spółdzielczy* [the Cooperative Gazette].
3. The Polish Financial Supervision Authority shall specify the date of the bank's takeover by another bank in the decision referred to in para. 1.

Article 149

1. The takeover of a bank shall be effected on the basis of a balance sheet drawn up as of the day of the takeover. As of that day, the acquiring bank shall assume all the rights and obligations of the acquired bank.
2. The balance sheet referred to in para. 1 should be audited by a certified auditor authorised to audit the financial statements of the bank.
3. The acquiring bank shall notify the appropriate court register of the bank takeover and shall submit an application to delete the acquired bank from the register, together with the financial statements reviewed by a certified auditor.

Article 150

The own funds of the acquired bank shall be assigned to cover the balance sheet losses incurred by that bank.

Article 151

After claims of creditors of the acquired bank are satisfied or secured the acquiring bank shall perform payments to the shareholders or cooperative members of the acquired bank from the assets left behind, such payments being proportional to the share in that [acquired] bank's equity, or shall issue to those shareholders its own shares, or in the case of a cooperative bank shall grant members of the acquired bank the right to correspondent value of the members' share fund. The bank's own shares shall be distributed at the fixed issue price, this being however no greater than the book value of the shares, while the right to the share fund shall be valued by reference to the most recent approved balance sheet of the acquiring bank.

Article 152

The acquiring bank may demand an alteration to the terms of contract related to the liability entered into at law by the acquired bank in the year preceding the takeover, where the legal obligation involved grants the bank's counterparty a claim on more favourable terms than those generally applied at that time by the acquired bank. The claim of the acquiring bank shall be heard by the *voivodship* commercial court of appropriate jurisdiction.

Article 153

1. Administration of the assets of a bank under liquidation shall be assumed by a liquidator appointed by the Polish Financial Supervision Authority, who shall enjoy the powers reserved for the bank's management bodies under the present Act and the bank's articles of association. The liquidator shall represent the bank under liquidation both in and out of court.
2. As of the day the administration of the assets of the bank put under liquidation is assumed by the liquidator:
 - 1) the bank management board shall be dissolved and its members' mandates shall expire *ex lege*,
 - 2) decision-making powers of the supervisory board shall be suspended, subject to the of Art. 147, para. 3.

Article 154

The liquidation of a bank shall be carried out in accordance with the principles applicable to the liquidation of commercial companies or cooperatives, or pursuant to the regulations referred to in Art. 14, subject to the following:

- 1) no dividend nor interest on shares payments shall be paid during the liquidation proceedings,
- 2) the opening balance of the liquidation proceedings, programme of the liquidation and financial statement of the liquidation performed shall require the approval of the Polish Financial Supervision Authority,
- 3) the liquidator shall report to the Polish Financial Supervision Authority and to the bank's creditors on the course of liquidation proceedings at intervals of no less than once a month,

- 4) the distribution to shareholders (or cooperative members) of the assets left behind after the claims of creditors have been satisfied or secured shall be performed no earlier than 1 year after last notice on the opening of liquidation proceedings is given.

Article 155

1. The liquidator shall be entitled to demand an alteration to the terms of the contract regarding the liability referred to in Art. 152. The liquidator may deduct bank account liabilities in respect of a bank account, albeit not yet matured, from the claims held by the bank put under liquidation.
2. On completion of liquidation proceedings, the liquidator shall draw up a report of liquidation and submit this to the Polish Financial Supervision Authority and to the court of registration, filing for the bank to be repealed from the register.

Article 156

The detailed conditions and procedure for the takeover or liquidation of a bank and the appointment of a liquidator shall be stipulated in the decision referred to in Art. 147, para. 1.

Article 156a

1. The general meeting may take a decision on voluntary liquidation of the bank for reasons other than those specified in Art. 147. Before the commencement of voluntary liquidation the bank shall be obliged to notify the Polish Financial Supervision Authority of its decision and shall submit a liquidation programme for the Polish Financial Supervision Authority's approval. The provision of Art. 154, subpara. 3 shall apply *mutatis mutandis*.
2. The bank's voluntary liquidation shall exclude the possibility of the measures, referred to in Articles 142-145, Art. 147 and Art. 157, which may be taken by the Polish Financial Supervision Authority.

Article 157

The Polish Financial Supervision Authority may dismiss the liquidator appointed by the bank, should that liquidator be performing the liquidation of the bank in a manner that jeopardises the safety of the funds held on bank accounts. In such circumstances, the Polish Financial Supervision Authority shall appoint a new liquidator.

Article 157a

Where measures referred to in Articles 142-145, Art. 147 and Art. 157 are taken with respect to a branch of a domestic bank having its branch in another Member State, the Polish Financial Supervision Authority shall immediately notify the competent supervisory authorities of the host Member State.

Article 157b

Where measures referred to in Articles 142–145, Art. 147 and Art. 157 are taken with respect to a branch of a foreign bank, the Polish Financial Supervision Authority shall immediately notify the competent supervisory authorities of the host Member State in which another branch of the bank is located.

Article 157c

1. Where measures are undertaken by the competent supervisory authorities of a Member State in order to liquidate a credit institution that operates in the Republic of Poland, the Polish Financial Supervision Authority shall recognize the measures taken by such authorities, on a reciprocal basis.
2. The provision of para. 1 shall not exclude the powers of the Polish Financial Supervision Authority in respect of a branch of a credit institution in the cases referred to in Art. 141a. The provision of Art. 141a, para. 3a shall apply *mutatis mutandis*.

Article 157d

1. The liquidator or any other person appointed by the competent supervisory authorities of a Member State to carry out the liquidation of a credit institution, that intends to act in the Republic of Poland and take measures with respect to a branch of that institution shall submit a certified copy of a ruling or decision on their appointment together with a certified translation into Polish to the Polish Financial Supervision Authority.
2. Persons referred to in para. 1 shall be authorised to act only within the scope specified in the appointment document. Where such a document does not include detailed provisions, the Polish Financial Supervision Authority shall, by decision, on a case-by-case basis specify actions to be undertaken by such a person in the Republic of Poland. That person shall, in each case, be obliged to reveal the fact of the commencement of the liquidation proceedings and their effects to competent registers maintained for the branch of the credit institution.

Article 157e

The effects of the commencement of reorganization measures with regard to a branch of a credit institution or the results of its liquidation shall be assessed pursuant to regulations binding in the home Member State, provided that the reciprocity rule is applicable, and subject to the following provisions:

- 1) employment contracts and work relationships shall be governed by the Member State law which applies to the contract,
- 2) agreements that grant the right to purchase or use real estate property shall be assessed pursuant to the law of the Member State in which the real estate property is located, with the proviso that the same law is applied when a given asset is deemed to be real estate property,
- 3) regulations related to real estate property, marine vessels or aircraft shall be governed by the law of the Member State in which the appropriate register is held.

C. Bankruptcy of a bank

Article 158

1. Where a bank's balance sheet indicates that its assets are not sufficient to cover its liabilities, the bank's management board, administrators or liquidator shall immediately notify the Polish Financial Supervision Authority which shall take a decision on suspension of bank's operations and thereupon a decision on its takeover by another bank, with the consent of the acquiring bank, or petition the competent *voivodship court* of appropriate jurisdiction for a declaration of bankruptcy, advising the Bank Guarantee Fund of this fact.
2. In the case of a cooperative bank, the notification referred to in para. 1 may also be given by the management board of the affiliating bank in which the cooperative bank concerned is a shareholder.
3. In the absence of the notification referred to in para. 1, the Polish Financial Supervision Authority may also on its own initiative make a decision on suspension of a bank's operations or its takeover, or on submitting a petition for declaration of bankruptcy.
4. Public notice of the decision suspending operations of a bank shall be given in a national daily newspaper and in *Monitor Sądowy i Gospodarczy* [the Court and Business Gazette].
5. Taking a decision referred to in para. 1, the Polish Financial Supervision Authority may appoint administrators in the bank; provisions of Art. 145 paras. 1-3, 5 and 6 shall apply *mutatis mutandis*.
6. The decisions referred to in paras. 1 and 5 shall not be subject to appeal.

Article 159

1. While its operations are suspended, a bank shall not:
 - 1) settle liabilities, with the exception of justified expenses incurred in its ongoing activity, or carry on the business of banking, except the recovery of claims and the execution of credit transfers to accounts of tax authorities in relation to claims referred to in Art. 55, para. 1 of the Act of 19 August 2011 on Payment Services,
 - 2) withdraw funds from the balance surplus or pay out interest on deposits.
2. Any enforced collection proceedings cannot be instituted against the bank whose operations have been suspended, and such proceedings instituted previously shall be suspended. Enforced collections on accounts operated by this bank shall also be suspended.
3. The conditions and scope of the bank's business activity applicable when its operations are suspended shall be specified in the decision referred to in Art. 158, para. 1.

Article 160-168 (repealed).

Article 169

The liquidation of a bank pursuant to provisions of Art. 138 and Art. 147, its takeover or bankruptcy, or institution of receivership, shall render void any rights held by members of the bank's management bodies, concerning severance pay and remuneration for the period following termination of their contract of employment.

CHAPTER 13

CIVIL AND CRIMINAL LIABILITY

Article 170

1. Performance of banking operations without authorisation shall not constitute grounds for charging interest, fees or commission, or obtaining other consideration.
2. Whoever has received interest, commission, fees or other consideration for the operations referred to in para. 1 shall be obliged to return them.

Article 171

1. Whoever carries out, without authorisation, the business of accepting funds from other natural or legal persons or organisations without legal personality in order to extend loans or cash advances or expose such funds to risk in another way shall be liable to a fine of up to 5,000,000 zloty and to imprisonment for a term of up to 3 years.
2. Anyone who, pursuing gainful activity in contravention of the provisions of the present Act, employs the terms "*bank*" or "*kasa*" in the name of an establishment which is not a bank, or to describe or advertise the activities thereof is subject to the same penalty.
3. Anyone carrying out the activity specified in paras. 1 and 2, where he/she acts on behalf of, or in the interests of, a legal person or organisational unit without legal personality, is also subject to the same penalty.
4. Whoever, being required to furnish authorised bodies with information concerning a bank and its customers, to the extent specified in the present Act, communicates false information or conceals true information, shall be liable to a fine and to imprisonment for a term of up to 3 years.
5. Whoever, being bound by the obligation of banking secrecy, discloses or makes use of the information constituting a banking secrecy in breach of the authorisation defined in the present Act, shall be liable to a fine of up to 1,000,000 zloty and to imprisonment for a term of up to 3 years.
6. Whoever, being responsible for ensuring the proper performance of internal control of data and information required in connection with the exercise of consolidated supervision, or for providing information and clarifications required by the Polish Financial Supervision Authority, fails to discharge this duty or fails to do so in an accurate and timely manner, shall be liable to a fine of up to 1,000,000 zloty or to imprisonment for a term of up to 3 years.

7. Whoever, being responsible for compiling or submitting to the Polish Financial Supervision Authority consolidated financial statements or other reports related to consolidated supervision, fails to discharge this duty or fails to do so in an accurate and timely manner, shall be liable to a fine of up to 500,000 zloty or to imprisonment for a term of up to 2 years.

CHAPTER 14

TRANSITIONAL PROVISIONS, AMENDMENTS TO BINDING PROVISIONS AND FINAL PROVISIONS

Article 172

1. Banks which, on the day the present Act takes effect, do not meet the requirements concerning the level of own funds provided for herein shall be required to:
 - 1) achieve the solvency ratio stipulated in Art. 128 and increase their own funds to the level required for the establishment of banks, by 31 December 1998,
 - 2) draw up a programme for achieving the solvency ratio referred to in subpara. 1 above within three months of the present Act taking effect and submit it to the Polish Financial Supervision Authority.
2. In justified cases, the Polish Financial Supervision Authority shall extend the time period stipulated in para. 1, subpara. 1 above, but not beyond 31 December 1999.
3. A cooperative bank that has affiliated to an affiliating bank shall be required to increase its own funds to a level no less than the following:
 - 1) the zloty equivalent of EUR 300,000, as converted at the mid- rate derived from the exchange rate schedules published by Narodowy Bank Polski and ruling at the end of the year preceding the year in which the required capital threshold is achieved, this level to be attained no later than 31 December 2001,
 - 2) the zloty equivalent of EUR 500,000, as converted at the mid- rate derived from the exchange rate schedules published by Narodowy Bank Polski and ruling at the end of the year preceding the year in which the required capital threshold is achieved, this level to be attained no later than 31 December 2005,
 - 3) the zloty equivalent of EUR 1,000,000, as converted at the mid- rate derived from the exchange rate schedules published by Narodowy Bank Polski and ruling at the end of the year preceding the year in which the required capital threshold is achieved, this level to be attained no later than 31 December, 2010.

Article 173

1. Banks which, on the day the present Act takes effect, do not fulfil the requirements concerning the level of initial capital provided for herein shall be required to increase this capital to the level stipulated in Art. 32, para. 1, by 31 December 1999.
2. The provisions of para. 1 above shall not apply to cooperative banks.

Article 174

1. The risk provision referred to in Art. 96 of the Act referred to in Art. 193 shall be wound up as of the first day of the financial (fiscal) year beginning on or after 1 January 1998, with the proviso that the amount equivalent to charges to this reserve, less corporate income tax calculated pursuant to para. 3, shall be transferred to the bank's reserve capital and the amount of tax due shall become the bank's liability to the state budget.
2. The amount of charges held in the risk provision referred to in para. 1 above:
 - 1) where appropriated from the bank's earnings shall not be subject to corporate income tax;
 - 2) where expensed against income:
 - a) 50% of the said amount shall not be subject to tax and
 - b) 50% of the said amount shall be subject to tax, with the proviso that the tax due shall be paid over a period of three fiscal years beginning with the fiscal year commencing in 1998, in equal monthly instalments during each year.
3. The amount referred to in para. 2, subpara. 2, point b above shall not be combined with income from other sources and the tax due shall be calculated as the product of the said amount and the tax rate of 40%.
4. Payments of the corporate income tax referred to in para. 2 above shall be made on the dates for advance tax payments stipulated in separate regulations.

Article 175

The provisions of Chapter 2 shall also apply to proceedings which, prior to the present Act taking effect, had not been concluded by granting authorisation by the President of Narodowy Bank Polski for establishing a bank or opening a branch of a foreign bank or of a branch of a domestic bank abroad, or opening a representative office of a foreign bank.

Article 176

Reorganisation, liquidation and bankruptcy proceedings instituted prior to the day the present Act takes effect shall as of that day be continued pursuant to the provisions of the present Act.

Article 177

1. Banks in operation on the day the present Act takes effect shall be deemed banks as defined by the Act and shall retain their powers and obligations insofar as these are not contrary to the Act.
2. Joint-venture banks in operation on the day the present Act takes effect shall henceforth be deemed "banks with foreign shareholders".
3. Share capital paid-up in foreign currencies to banks established by foreign parties or involving foreign shareholders shall be converted into zloty at the mid-rate published by Narodowy Bank Polski ruling on the date the present Act takes effect.

Article 178

1. A bank which commenced its business activity prior to the Act referred to in Art. 193 taking effect and does not possess authorisation from the President of Narodowy Bank Polski to establish a bank shall be authorised to conduct the banking operations provided for in its articles of association, insofar as this would not be contrary to the provisions of the present Act
- 1a. The bank referred to in para. 1 may perform the banking operations provided for in its articles of association in a host Member State, insofar as this would not be contrary to the provisions of the present Act.
2. With respect to the bank referred to in para. 1, instead of revocation of the authorisation to establish a bank, provided for under Art. 138, para. 3, subpara. 4, and para. 6, a decision prohibiting performance of certain banking operations or of all such operations is applied.

Article 179

The restrictions on the acquisition and taking up of equity in other legal persons and on other shares and contributions to the capital thereof, including the acquisition by banks of shares and the exchange of claims for assets belonging to the debtor, provided for under the present Act, shall not apply in the course of the proceedings specified in the Act of 3 February 1993 on the Financial Restructuring of Enterprises and Banks and on Amendments to Certain Legislation (Journal of Laws of 1993, No. 18, item 82, as amended).

Article 180

Banks which exceed the limits stipulated in Art. 6, para. 1, subpara. 1, and para. 3, and in Art. 71 on the day the present Act takes effect shall be required to comply with those limits by 31 December 1999.

Article 181

Agreements concluded by banks prior to the present Act taking effect, including bank guarantees and other guarantees extended, shall be governed by the regulations previously in force, with the reservation of Art. 152.

Article 182

1. The previous implementing regulations, insofar as these are not contrary to the provisions of the present Act, shall remain in force until the issue of the implementing regulations provided for in the present Act, this being no longer, however, than 6 months.
2. Within 6 months of the present Act taking effect, the President of Narodowy Bank Polski shall publish in *Dziennik Urzędowy Narodowego Banku Polskiego* [the Official Gazette of Narodowy Bank Polski] a list of the implementing regulations in force.

Article 183

1. Bearer certificates issued under savings deposit agreements concluded prior to the present Act taking effect shall remain valid until such agreements expire, unless the parties to the agreement previously resolve to convert these into the savings account agreements referred to in Art. 50, para. 2.
2. The agreements based on which until 1 January 1998 bearer certificates were issued and which have not been converted into the savings account agreements referred to in para. 1 shall expire on 1 January 2006 and monetary funds due from those agreements shall be refunded to the certificate holders together with interest, since 1 January 2006 the interest shall be calculated at the rate established for funds accumulated on savings account operated by the bank under agreements concluded for indefinite period of time.

Article 184-192 (repealed).

Article 193

The Banking Act of January 31, 1989 (as published and amended in Journal of Laws of 1992 No.72, item 359; of 1993 No. 6, item 29; No. 28, item 127; No. 134, item 646; of 1994 No. 80, item 369; No. 121, item 591; of 1995 No. 4, item 18; No. 133, item 654; of 1996 No. 10, item 61; No. 75, item 357; No. 90, item 406; No. 106, item 496; No. 149, item 703; of 1997 No. 23, item 117; No. 24, item 119; No. 71, item 449; No. 88, item 554; No. 121, items 769 and 770 and No. 137, item 926), is hereby repealed, with the exception of the provisions of Art. 121, paras. 2 and 3.

Article 194

The present Act shall take effect as of 1 January 1998.